



# भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित  
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सं. 14] नई दिल्ली, अप्रैल 2—अप्रैल 8, 2023, शनिवार/चैत्र 12,—चैत्र 18, 1945  
No. 14] NEW DELHI, APRIL 2—APRIL 8, 2023, SATURDAY/CHAITRA 12,—CHAITRA 18, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

विदेश मंत्रालय  
(सी.पी.वी. प्रभाग)

नई दिल्ली, 29 मार्च, 2023

**का. आ. 335.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, जेदाह में श्री विकास यादव, सहायक अनुभाग अधिकारी को दिनांक मार्च 29, 2023 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी. 4330/01/2023(11)]

एस. आर. एच. फहमी, निदेशक (कांसुलर)

**MINISTRY OF EXTERNAL AFFAIRS**  
**(CPV DIVISION)**

New Delhi, the 29th March, 2023

**S.O. 335.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Vikas Yadav, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Jeddah to perform the Consular services with effect from March 29, 2023.

[F. No. T. 4330/01/2023(11)]  
S.R.H FAHMI, Director (Consular)

**कृषि एवं किसान कल्याण मंत्रालय**  
**(कृषि अनुसंधान एवं शिक्षा विभाग)**

नई दिल्ली, 31 मार्च, 2023

**का.आ. 336.**—केन्द्रीय सरकार, कृषि एवं किसान कल्याण मंत्रालय, कृषि अनुसंधान एवं शिक्षा विभाग, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भा.कृ.अ.प. - भारतीय मृदा विज्ञान संस्थान, नबीबाग, बैरसियारोड, भोपाल-462038 को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[फा. सं. 13-05/2020-हिन्दी (e-3609)]

बलराज, अवर सचिव

**MINISTRY OF AGRICULTURE AND FARMER WELFARE**  
**(Department of Agricultural Research And Education)**

New Delhi, the 31st March, 2023

**S.O. 336.**—In pursuance of sub-Rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules 1976, the Central Government, Ministry of Agriculture & Farmer Welfare, Department of Agricultural Research & Education hereby notifies the I.C.A.R - Indian Institute of Soil Science, Nabibagh, Berasia Road, Bhopal-462038, where more than 80% of staff have acquired the working knowledge of Hindi.

[F. No. 13-05/2020-Hindi (e-3609)]

BALRAJ, Under Secy.

**श्रम और रोजगार मंत्रालय**

नई दिल्ली, 3 अप्रैल, 2023

**का.आ. 337.**—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गेल (इंडिया) लिमिटेड के कारखानों और स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट तारीख 14 जून, 2023 से ही एक वर्ष की अवधि के लिए प्रभावी रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) कारखाना और स्थापना छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेगी;

- (2) कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
  - (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
  - (4) उक्त कारखाने और स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तन के अध्याधीन था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों से युक्त होगी जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
  - (5) निगम द्वारा उक्त अधिनियम की धारा 45 की उप धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस प्रयोजन के लिए इस निमित्त प्राधिकृत कोई अन्य पदधारी—
    - (i) उक्त अधिनियम की धारा 44 की उप धारा (1) के अधीन, उक्त अवधि के लिए प्रस्तुत किसी विवरणी में अंतर्विष्ट विशिष्टियों को सत्यापित करने; या
    - (ii) यह अभिनिश्चयन के लिए कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
    - (iii) यह अभिनिश्चयन के लिए कि कर्मचारी, नियोजक द्वारा दिये गए उन प्रसुविधाओं को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या
    - (iv) यह अभिनिश्चयन के लिए कि उस अवधि के दौरान, जब उक्त कारखाने और स्थापन के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा—
      - (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे इस अधिनियम के प्रयोजन के लिए आवश्यक समझता है; या
      - (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
      - (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
      - (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना; या
      - (ङ) यथास्थिति अन्य शक्तियों का प्रयोग करना जो विनिर्दिष्ट दिए जाएँ।
6. विनिवेश या निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट के लिए समुचित सरकार को आवेदन करना होगा।

[सं. एस-38014/03/2021-एस.एस-1]

बी. के. बिस्वास, अवर सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 3rd April, 2023

**S.O. 337.**—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of factories and establishments of **GAIL (India) Limited** from the operation of the said Act. The exemption shall be effective for a period of one year on and with effect from the 14<sup>th</sup> day of June, 2023.

2. The exemption is subject to the following conditions namely:-

- (1) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees';
- (2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;
- (3) the contribution for the exempted period, if already paid, shall not be refundable;
- (4) the employer of the said factory and establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it, shall, for the purpose of —
  - (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or
  - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
  - (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
  - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment to be empowered to —
    - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
    - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
    - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
    - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises; or
    - (e) exercise such other powers as may be specified.
- (6) in case of disinvestment or corporatisation, the exemption granted shall stand cancelled and the new entity may apply to the appropriate Government for exemption.

[No. S-38014/03/2021-SS-I]

B.K. BISWAS, Under Secy.

नई दिल्ली, 3 अप्रैल, 2023

**का.आ. 338.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आन्ध्रा बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 दिल्ली के पंचाट संदर्भ सं. (289/2018) को प्रकाशित करती है ।

[सं. एल -12012/36/2018-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 3rd April, 2023

**S.O. 338.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.289/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Delhi as shown in the Annexure, in the industrial dispute between the management of Andhra Bank and their workmen.

[No. L-12012/36/2018– IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, NEW DELHI.

**Present:** Smt. PRANITA MOHANTY, Presiding Officer,  
C.G.I.T.-Cum-Labour  
Court-I, New Delhi.

#### INDUSTRIAL DISPUTE CASE No. 289/2018

**Date of Passing Award- 08/08/2022**

#### Between:

Shri Raman Kumar Thakur,  
S/o Shri Ashok Thakur, vill & PO: Prem Nagar,  
Tole Bahori, Dist. Sitamari,  
Bihar.

....Workman

Versus

The Branch Manager,  
Andhra Bank,  
Aggarwal Plaza, LSC-1, MIG Housing Scheme,  
Mayur Vihar-III,  
Delhi-110096.

...Management

#### Appearances:-

Claimant in person  
(A/R)

For the claimant

None for the management  
(A/R)

For the Management



### AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Andhra Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/36/2018 (IR(B-II)) dated 05/11/2018 to this tribunal for adjudication to the following effect.

**“Whether the action of the management of Andhra Bank in denying duty to Shri Raman Kumar Thakur S/o Ashok Thakur amounts to illegal and/or unjustified termination and whether the workman is entitled to reinstatement in the services of Bank as permanent workman with effect from 25/11/2013 to 14/11/2015. If yes, what directions are necessary in this respect and what other relief the workman is entitled to?”**

As per the narratives in the claim statement, the claimant Raman Kumar Thakur started working as a peon in the branch of Andhra Bank, the respondent of this proceeding situated at Mayur Vihar Phase III, New Delhi i.e. 25/11/2013. His appointment was made as a peon by the then Branch Manager. His initial salary was Rs 2000/- per month. But after one year it was increased to Rs 9000/- per month i.e. @ Rs 300/- per day. During the course of such employment the claimant was discharging his duties with utmost sincerity, leaving no scope for complaint by anybody. His activity as a peon was recorded in different register and documents maintained in course of business by the Bank. He was getting his monthly remuneration in cash from the Branch of the Bank. But suddenly on 14/11/2013, and without giving any notice, his service was terminated by the manager of the Bank. Being aggrieved the workman raised a dispute before the conciliation officer. The Bank management appeared and took contradictory stand on the employment of the claimant. Since no conciliation could be arrived the Appropriate Government referred the matter to this Tribunal for adjudication.

Notice when served, the management Bank did not appear and no written statement denying the claim of the workman was filed. Thus the claimant was called upon to adduce evidence substantiating his stand.

The claimant examined himself as ww3 and produced a no of documents which have been marked in a series of Ext ww3/1 to ww3/8. Besides examining himself the claimant has examined two account holders of the Bank who are having shops in front of the Bank to prove that the claimant was working in the Branch of the Bank at Mayur Vihar Phase –III from 2013 to 2015.

The claimant as ww3 has stated that on 25/11/2013, he was appointed as the peon by the then Manager Shilpa Awasthi on monthly remuneration of Rs 2000/- considering his devotion towards work and sincerity, his remuneration after one year was increased to 9000/- i.e. @ Rs 300/- per day. This statement of the claimant shows that he was working as a daily wage. He has further stated that the remuneration he was getting by cash. No document evidencing payment made by the Bank has been placed on record. But the claimant in his statement explained that all the documents are in the possession of the Bank and his effort for getting the same by RTI application failed. On behalf of the claimant the WS filed by the Bank before the labour commissioner during conciliation has been filed as Ext ww3/4. This document shows that the Bank before the commissioner had taken two contradictory statements. Whereas at one point the employee status of the claimant has been denied, at other point it has been admitted that he was working in the Bank for specific purpose. This proves that the claimant was working in the Bank for the period as claimed by the claimant as the said averment has not been denied or rebutted by the Bank. This claim of the claimant also finds support from the oral evidence adduced by WW1 and WW2, who are maintaining accounts with the respondent Bank's branch at Mayur Vihar and having shops in front of the Bank there by having the occasion of seeing the claimant working there as a peon. This evidence also stands un rebutted. Hence from the oral and documentary evidence adduced by the claimant it is proved that the claimant was working in the Bank from 25/11/2013 to 14/11/2015 as a daily wage and getting Rs 9000/- per month @ Rs 300/- per day.

Now it is to be considered whether his service was terminated without notice of termination and without following the procedure laid down u/s 25 F of the ID Act. The oral evidence adduced by the claimant reveals that no notice of termination or notice pay or termination compensation was paid to him. He was discharging a perennial nature of work and after his termination, one Pankaj has been engaged. This oral statement of the claimant again stands uncontroverted and un rebutted. The record and chronologically maintained order sheet reveals that the Management being served with the notice had entered appearance through its AR, advocate Shri Mehraj Tyagi and took time to file Written Statement. On the next date of adjournment again the Management Bank appeared through the AR and sought time for filing WS. But there after the management abandoned the proceeding without filing WS and thus, the pleading and evidence of the claimant stands unchallenged and uncontroverted.

The claimant has prayed for a direction to the respondent for re instating him into service with back wages and other benefits. The admitted facts are that the claimant was not a regular and permanent employee of the Bank, but a daily wager. The uncontroverted evidence of the claimant shows that he had worked continuously for more than 240 days in a calendar year. In such a situation, the Bank before terminating his engagement should have complied the provisions of sec 25F of the ID Act.

The law is well settled that the management who is the mighty employer can not avail the privilege of utilizing the service of a workman by giving him whatever name as daily wager, casual, Badli etc and would disengage him at the sweet will forcing without complying the provisions of sec 25F of the ID Act and thereby forcing him to a litigation. The said action of the management no doubt amounts to unfair labour practice.

But the law is also well settled that for every act of unfair labour practice, the order for reinstatement should be the Rule. The Tribunal has to take into consideration the nature of employment and the period of employment and in appropriate cases can direct for payment of compensation. In this case the claimant had worked for only two years on daily wage basis. There is no material evidence to believe that there is still a vacancy in the position in which the claimant was working. Since the management had not complied the provisions of sec 25F of the ID Act at the termination, it would be proper to direct the management to pay compensation to the claimant as against his prayer for reinstatement. Hence, ordered.

### **ORDER**

The reference be and the same is answered in favour of the claimant. The management for not complying the provision of sec 25F of ID Act and for subjecting the claimant to unfair labour practice after availing two years service rendered by the claimant is directed to compensate him with 15 days remuneration for each year of service amounting to Rs 9000/-, one month salary i.e 9000/- in lieu of notice or notice pay and Rs 2,00,000/- as compensation and litigation expenses for forcing him to this litigation and later abandoning the same. The total amount of Rs 2,18,000/- shall be paid to the claimant by the management within two months from the date of publication of the award without interest failing which the amount as directed would carry interest @ 9% per annum from the date of filing of the claim statement and till the payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer.

नई दिल्ली, 3 अप्रैल, 2023

**का.आ. 339.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट संदर्भ संख्या (1/04, 2/04 ओर 5/2004) को प्रकाशित करती है ।**

[सं. एल -41012/162/2003- आई आर (बी- I)]

[सं. एल -41012/164/2003- आई आर (बी- I)]

[सं. एल -41012/166/2003. आई आर (बी- I)]

सलोनी, उप निदेशक

New Delhi, the 3rd April, 2023

**S.O. 339.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.1/04, 2/04 and 5/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen.

[No. L-41012/162/2003– IR(B-I)]

[No. L-41012/164/2003-IR(B-1)]

[No. L-41012/166/2003-IR(B-I)]

SALONI, Dy. Director

### ANNEXURE

#### BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOR COURT KANPUR.

Industrial Dispute No.1/04, 2/04 and 5 of 2004

#### Between –

1. Sri Shanker Lalson of Late Sri Tulsi,  
Village Meera,  
Post Baduni & Tehsil & Diistrict Datia,
2. Sri Manoj Kumar,son of late Sri Bhagirath,  
House No. 296,Gali No. Nndanpur,  
Jhansi.
3. Sri Hari Ram son of Panna Lal,  
House No. 71, Outside Datia Gate,  
Jhansi.

#### AND

The Divisional Commercial Manager (Catering)  
Central Railway  
Jhansi.

Vide reference no. L-41012/162/2003-IR(B-1) dated 09.0-1.04,L-41012/164/2003 IR B-1 dated 09.01.04 & L-41012/166/2003-IR B-1 dated 9.01.04./9.1.04

#### AWARD

1. These are three cases viz I.D. No. 1/04 Shanker Lal versus Divisional Commercial Manager (Catering) Central Railway, Jhansi. I.D. No. 2 of 04 Manoj Kumar versus DCM(Catering) NCR Jhansi and I.D. No. 5 of 2004 Hari Ram versus NRC, Jhansi, sent to this tribunal for decision according to law on the reference made by Central Government, MOL, New Delhi.
2. Both the parties have prayed that all the three cases be connected and consolidated because there is a common point of law involved in all these cases on the common facts involved in all the cases, therefore, considering their prayer II the three cases have been consolidated and Industrial Dispute No. 1 of 2004 has been treated as leading cases.
3. In all these three cases the reference and date of reference is the same. The reference is like this – whether the action of Divisional Commercial Manager (Catering) Central Railway Jhansi in retrenching the services of S/Sri Shanker Lal, Manoj Kumar and Hari Ram with effect from 30.09.94 is legal? If not to what relief the concerned workmen are entitled to ?
4. Brief facts are that the claimant had alleged that he was appointed on 10.7.88 in the catering department of North Central Railway ,Jhansi. After completing 120 days and after medically declared fit he was provided the status of MRCL. His services were mainly on the train running in between New Delhi to Bhopal Shatabdi Express in the catering department. Nature of work was of permanent. Opposite party vide his letter dated 30.09.94 terminated his services saying that his services are no longer required.



5. All these three claimant had made an averments with respect to that the workers who were working were more than 200. These averments were made with the purpose that the provisions are also hit by section 25-K and 25-N of the Act. It is pertinent to mention that during arguments both the party is have specifically conceded before me they are not invoking the provisions of section 25K or 25N of the ct. They are limiting their arguments and averments of the pleading only to the applicability of section 25F of the ct. So whatever the pleadings regarding the strength of the workers, so there is no use of mentioning. It is alleged that the action of the opposite party is malafide. It is also alleged that according to section 25F of I.D. Act It was required by the opposite party to seek approval of the competent authority on the prescribed form. Therefore all the claimants have prayed that the order of termination of services dated 30.09.94 be set aside and it may be ordered to reinstate them with effect from 1.10.94.

6. Opposite party has file the written statement I each case. It Is alleged by them that the claimant was engaged as DRCL on need Basis on 1.9.88. The need was to supply meals to the passenger of Shatabdi Express train. It is stated that after completion of 20 days of continuous working without any break the claimant was given temporary status as per rules. It is also stated that the unit in which the claimant has not been retrenched as a measure of punishment but only due to the fact that their services no more required and as such he ws retrenched under section 25F of the Act. Therefore, the claim of the claimant is not maintainable and they are not entitled for any relief.

7. Rejoinder has also been filed.

8. Perused the whole documentary evidence filed in all these three cases.

9. No one has adduced any oral evidence.

10. Claimants have filed 13 documents vide list11/1-11/2. As I have already stated that during arguments both the parties specifically claimant's side conceded and concised that they will argue under section 25F of the Act. I therefore, the documentary evidence which are mostly photocopies, which may have been filed by the claimant probably on the strength that the workers where they were working had a strength of more than 100 and the opposite party had committed breach of other provisions of the Act ie 25-k and 25-n of the Act but they are not pressings these sections before me.

11. Therefore, the only short question to be decided I all the petition is whether paper no. 11/6 in I.D.No. 1 of 2004 , is a notice as contemplated under the provisions of section 25F of the Act or it is a simply a letter giving an information to the claimants to receive the compensation under the provisions of the section 25F of the Act.

12. At this stage I would like to reproduced the provisions of section 25F of the ct which is as under-

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a). the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired , or the workman as been paid in lieu of such notice, wages for the period of the notice,

(b). the workman has been paid, at the time of retrenchment , compensation which shall be equivalent to 15 days average pay or any pay there of in excess of six months; and

(c). Notice in the prescribed manner is served on the appropriate government.

13. Under section 25F of the Act there are three sub section (a),(b) and (c). No arguments or dispute has been raised before me regarding sub section (c) .Sub section (a) provided that the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired , or the workmen has been paid in lieu of such notices, wages for the period of the notice.

14. It is the contention and arguments of the opposite party that the legislature has provided a discretion to the employer before retrenchment either to serve the notice as contemplated under sub section (a) which has three conditions i.e. One month's time, second reasons required to be disclosed and the third the period of notice has expired. But the second discretion is that the employer can make a payment in lieu of such notice wages for the period of notice and the compliance of sub section (b). It is argued that they had fully complied and made the payment in lieu of such notice wages payment and the payment required under sub section(b). Claimant's side has also not denied this fact. They have concede that they have been made full and final payments as compensation. Claimant's side is pressing that the language of paper no.11/6 is such that it amounts to notice.

15. I have gone through the contents of letter 11/6 in I.D. No.1/04 and similar letters are on the other file. In this letter under subject there is an endorsement to the effect Information regarding termination of service. It is also mentioned that your services are no more required, therefore your services are terminated with immediate effect and considering your services you are being paid retrenchment compensation amounting to Rs.4,662/- and in lieu of notice one month's wages amounting to Rs.1554/- total of which comes to Rs. 6216/-. You are required to receive the same.

16. Therefore, considering the language and the contents and the intention and circumstances of the case it is clear that it is not notice as contemplated under the provisions of section 25F of the Act, but it is an information and letter given to the claimants asking them to receive the retrenchment compensation. It is also contended by the opposite party that the claimant's had never made any averments in their pleadings that the opposite has not disclosed the reasons in the letter/ notice. It is also argued that in Para 4 of the claim statement the claimant had made a mention to the effect of letter and notice. Therefore, I agree with the view of the opposite party. Paper no. 11/6 in I.D. No. 1/2004, paper no.13/5 in ID No.2/04 and paper no. 13/7 in ID No. 5 of 04 is not a notice as contemplated under the provisions of section 25F of the Act. There does not appear to be any breach of provisions committed by the opposite party.

17. As I have already stated that the claimant had not adduced any evidence in respect of other averments and pleadings regarding the strength of the workers and the applicability of sections 25K and 25N of the Act, therefore, claimants have failed to prove that the opposite party has committed any breach of the provisions of Industrial Disputes Act, or opposite party had acted malafide, therefore, all the references are decided against the claimants and in favour of the opposite party management.

18. Let a copy of this award be placed in I.D. No. 2 of 2004 and 5 of 2004.

RAM PARKASH, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 340.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (59/2013) को प्रकाशित करती है।

[सं. एल-12011/29/2001-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 340.**— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 59/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jablpur as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/29/2001- IR(B-II)]

SALONI, Dy. Director

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT,**  
**JABALPUR**  
**NO. CGIT/LC/R/59/2013**

**Present:** P.K. SRIVASTAVA, H.J.S..( Retd)

The General Secretary  
 Rashtriya Karmachari Sangathan  
 F-1 Tripti Vihar, Ujjain(M.P.)

... Workman

Versus

The Managing Director,  
 UCO Bank Head office,  
 10 BTM, Sarani Kolkata

... Management

**AWARD**  
**(Passed on this 10<sup>th</sup> day of October-2022.)**

As per letter dated 15/3/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/29/2001-IR(B-II). The dispute under reference relates to:

**“Whether the services of Shri Hari Singh Movel was dismissed in an illegal manner vide order dated 8-9-1997. If yes , then what relief he is entitled for? .”**

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.

2. The case of the workman as stated in his statement of claim is that he was first appointed on 9-11-1994 as a clerk cum cashier. A First Information Report with allegations of fraud and fabrication of documents was registered against him as crime No.150/1997. He was put under trial on the basis of charge sheet filed by police after investigation and was acquitted from the charges. The Management suspended him from service and started a departmental inquiry. The Inquiry was conducted in English inspite of his request that it be conducted in hindi, therefore, he could not participate in the inquiry. According to the workman, the inquiry was conducted against law. The charges were held legally proved by the management and the punishment was also disproportionate to the charges.

3. According to the management, while in service, the workman was issued a charge sheet dated 24-4-1993 with allegations of misconduct inviting major punishment with charge of taking wrongful possession of D.D.Leaf bearing No.OL/B/274260 of Ghonsla Branch and altering the same into DL/B/271200 and also replacing the name of the branch to that of K.N.Jabalpur branch and making out a draft of Rs.89,786.20 on 19-8-1992 in favor of R.C.Washkel payable at Tilak road Ujjain Branch of the Bank. He was further charged of issuing bogus branch cheques dated 19-8-1992 for the amount of Rs.89,786.20 with a view to given semblance of genuiness of the draft so issued . The drat was tried to be encashed but it was checked before it was encashed. The departmental inquiry was conducted and the charges were found proved against the workman. After giving show cause notice the workman was dismissed from service. According to the management, the charges were rightly held proved and the punishment is proportionate to the charges.

4. The workman filed and proved Exhibit W-1 his Caste Certificate and suspension order Exhibit W-2. Exhibit W-3 to Exhibit W-16 are mainly copies of inquiry papers. He filed his affidavit as his examination in Chief. He was cross-examined by Management. Management examined Shri V.N.Singh Branch Head . He has been cross-examined by workman. He has proved the inquiry papers M1 to M8.

5. On the basis of the pleadings and evidence, the issue of legality of inquiry was decided as preliminary issue by my learned Predecessor vide order dated 18-10-2016, holding the inquiry legal and proper. His this order is part of the Award.
6. Following other issues were framed by my learned Predecessor vide the same order:-
- 1) Whether the alleged misconduct is proved from evidence in inquiry proceedings.?
  - 2) Whether punishment of dismissal imposed against workman is legal and proper?
  - 3) If so, to what relief the workman is entitled to?
7. The workman further examined himself on these additional issues and was cross-examined. The management has not examined any witness nor produced any document on these additional issues.
8. None appeared from the side of the workman nor from the side of the management. No written argument has been filed by either of the parties, hence record has been perused by me.
9. **ISSUE NO.1:-**

The settled proposition of law with regard to proof of charge in departmental inquiry is that the charges need not be proved beyond reasonable doubt like criminal trial. Following decisions are being referred in this respect:-

- A. Hon'ble the Apex Court in the case of **State Bank of Bikaner & Jaipur V. Nemi Chand Nalwaya** (2011) 4 SCC 584. Para (10) of the judgement is being reproduced as follows:-

The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceedings invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him.

- B. The same principle has been reiterated by Hon'ble the Apex Court in the case of **Pravin Kumar V. Union of India** (2020) 9 SCC 471. Para 33 to 35 of this judgment are being reproduced as follows:-

33. The incident of 28.02.1999 raised serious questions of criminality under the Prevention of **Corruption Act**, as well as of violation of Service Regulations and administrative misconduct. Thus, in addition to appointment of enquiry officer, the authorities also registered a criminal complaint with the CBI. After investigation, the CBI though did not find adequate material to launch criminal prosecution against the appellant but through its self speaking report dated 07.03.2000, the CBI recommended major disciplinary action against the appellant and a few others.

34. It is beyond debate that criminal proceedings are distinct from civil proceedings. It is both possible and common in disciplinary matters to establish charges against a delinquent official by preponderance of probabilities and consequently terminate his services. But the same set of evidence may not be sufficient to take away his liberty under our criminal law jurisprudence. 6 Such distinction between standards of proof amongst civil and criminal litigation is deliberate, given the differences in stakes, the power imbalance between the parties and the social costs of an erroneous decision. Thus, in a disciplinary enquiry, strict rules of evidence and procedure of a criminal trial are inapplicable, like say, statements made before enquiry officers can be relied upon in certain instances.

35. Thus, the appellant's contention that he should be exonerated in the present proceedings as no criminal chargesheet was filed by the CBI after enquiry, is liable to be discarded. 8 The employer always retains the right to conduct an independent disciplinary proceeding, irrespective of the outcome of a criminal proceeding. Furthermore, the CBI report dated 07.03.2000 does recommend major disciplinary action against the appellant. The said report also buttresses the respondent's case.

C. In another case, General Manager, State Bank of India Vs. R. Perivasamy (2015) 3 SCC 101 the same principle has been reiterated in para 11 of the judgment which is being reproduced as follows:-

11. It is interesting to note that the learned Single Judge went to the extent of observing that the concept of preponderance of probabilities is alien to domestic enquiries. On the contrary, it is well known that the standard of proof that must be employed in domestic enquiries is in fact that of the preponderance of probabilities. In Union of India Vs. Sardar Bahadur [3], this Court held that a disciplinary proceeding is not a criminal trial and thus, the standard of proof required is that of preponderance of probabilities and not proof beyond reasonable doubt.

D. IN the case of Deputy General Manager, State Bank of India Vs. Ajai Kumar Srivastava (2021) 2 SCC 612 referred to by learned counsel for the Management, the same principle has been reiterated in para 27 of the judgment which is being reproduced as follows:-

27. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, the only requirement of law is that the allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

10. Keeping this preposition law, perusal of inquiry papers in the form of statement of Management witness and documents produced during the inquiry and filed before this Tribunal sufficiently prove the charges against the workman. Since the charges have elaborated earlier, they are not being reiterated here. ON perusal of inquiry papers as mentioned above, I find no occasion to defer from the finding of the inquiry officer that there are proved. Holding that there is no perversity in the finding it is affirmed and **Issue No.1 is answered accordingly.**

#### 11. **ISSUE NO.2:-**

Before entering into any discussion, the settled preposition of law coming out from different pronouncements requires to be produced and is being reproduced as under:-

A. Hon'ble Apex Court in B.C. Chavurvedi v. Union of India, (1995) 6 SCC 749 while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

12. *"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof."*

B. In DG, RPF vs. Sai Babu (2003) 4 SCC 331, Hon'ble Apex Court has observed that:

*Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department /establishment which the delinquent person concerned works."*

C. In United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364 Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:



*The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.*

*To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."*

- D. In Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257 Hon'ble Supreme Court reiterated the legal position as follows:

*"..... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."*

- E. In State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580 Hon'ble Supreme Court stated that:

*"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.*

- F. Hon'ble Apex Court in Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101 has observed that :

*"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.*

- G. Hon'ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721 has observed that:

*It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.*

13. The charges proved are of major misconduct in Bi Partite Settlement. They invite major punishment. The charges are of moral turpitude. Every employee is under obligation to act with full integrity while discharging his duties. No employer can afford an employee whose integrity is doubtful. Hence holding the punishment proportionate to the charges, **the Issue No.2 is decided accordingly.**

#### 14. **ISSUE NO.3:-**

In the light of the finding recorded above, the reference deserves to be answered against the workman and he is held entitled to no relief. **Issue No.3 is answered accordingly.**

15. On the basis of the above discussion, following award is passed:-

**A.The action of the management in dismissing the services of Shri Hari Singh Movel vide order dated 8-9-1997 is held to be just and proper.**

**B.The workman is held entitled to no relief.**

16. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 10-10-2022

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 341.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ सं. (34/2009) को प्रकाशित करती है ।

[सं. एल -12011/141/2008-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 341.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 34/2009) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12011/141/2008-IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/34/2009**

**Present:** P.K.SRIVASTAVA, H.J.S..( Retd)

The President

M.P.Retired Bank Employees Association

Vivekanand Nagar, Raipur(M.P.)

Versus

... Workman

The Chief Manager,

Punjab National Bank

Chhattisgarh Zone

Madina Manzil Medical College Road,

Raipur (C.G.)

...Management

#### AWARD

(Passed on 30-9-2022)

As per letter dated 3/3/2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/141/2008 (IR(B-II)). The dispute under reference relates to:

**“Whether the action of the management of Punjab National Bank, Chhattisgarh Zone, Madina Manzil, Raipur in awarding the punishment of bringing down to two stage lower in the scale of pay in terms of Para 6 of Bi Partite Settlement dated 10-4-2002 on Shri K.M.Ratre, Ex-CTO “B” Punjab National Bank B.O.Achanakmar vide letter dated 24-8-2006 is legal and justified. What relief the concerned workmen is entitled to and from what date .”**

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their statement of claim/defense.

2. The case of the workman union is that workman K.M.Ratre was initially appointed as clerk cum cashier by management and while he was officiating as Head Cashier at Main Branch Raipur, an inquiry with the allegation of mis-conduct said to be committed by him on account of shortage of Rs.40,000/- in cash on 19-1-1987 was initiated against him. The First Information Report was also lodged against him under Section 408 of the Indian Penal Code. A charge sheet was filed by Police after investigation. The case went on trial and he was punished for the charge by the Judicial Magistrate First Class vide Judgement of sentence dated 20-4-1999. He was dismissed by the Disciplinary Authority vide order dated 5-7-1999 from the date of his conviction. He preferred a criminal Appeal No.125/99. The Appeal was allowed and he was acquitted from the charge, setting aside his conviction and sentence passed by the Court of Judicial Magistrate. Thereafter, he was reinstated in service by Management on 10-4-2000. The charge sheet was issued thereafter against him with respect to the alleged incident for the charge of misconduct. He submitted his reply before the Disciplinary Authority who after considering his reply, instituted a Departmental inquiry and an Inquiry Officer and a Presenting Officer were appointed. The workman challenged the departmental inquiry by way of filing writ petition No.50781/2000 before Hon'ble High Court of Madhya Pradesh at Jabalpur which was later on transferred to Hon'ble High Court of Chhattisgarh, Bilaspur. The writ was allowed on 15-12-2005 and the charge sheet was quashed. The Management preferred SLP No.3863/2006 before Hon'ble the Supreme Court against the order of Hon'ble High Court. The SLP was allowed and the order of Hon'ble Chhattisgarh High Court was quashed and the charge sheet dated 24-4-2000 was set aside. Therefore, the Management proceeded with the inquiry which was against Rules and procedures mentioned in the Bi Partite Settlement as well as the Desai Award and Shastri Award. The Inquiry Officer wrongly held the workman guilty of the charges. The Disciplinary Officer passed the punishment order of bringing down to two stages lower in the scale of pay committing error in law in agreeing with the finding of the Inquiry Officer. The punishment is against law because the workman was acquitted from the same charge in criminal court. Accordingly, it has been prayed that holding the punishment against law, the workman be accordingly held entitled to wages and benefits.

3. The case of the Management is mainly that the inquiry was conducted in accordance with the procedure given in Bi Partite Settlement, Desai as well as Shastri Award giving the workman full opportunity of defending himself. The workman participated during the inquiry. He cross-examined the witness. He also filed his evidence. He was heard by Disciplinary Authority before granting punishment and punishment is proportionate to the charges.

4. On the basis of pleadings, the following issues were framed by my learned Predecessor vide his order dated 26-10-2016:-

- 1) Whether the inquiry conducted against the workman is just, proper and legal?
- 2) Whether the charges alleged against the workman are proved from evidence adduced in inquiry proceedings?
- 3) Whether the punishment of reducing pay scale by two stages imposed against the workman is just, proper and legal?
- 4) If so, to what relief the workman is entitled to?

## 5. ISSUE NO.1

Issue No.1 was taken as preliminary Issue. The workman did not lead any evidence. The Management also did not lead any evidence. The Management filed inquiry papers. **Issue No.1 was decided by order dated 26-7-2022 holding the inquiry just and proper.** This order is part of the Award.

6. Parties were given opportunity to lead evidence on respective remaining issues. No evidence was preferred. The workman side was not present at the time or arguments, hence arguments of learned counsel for the management Shri A.K.Shashi was heard and record has been perused by me. The workman did not prefer any written arguments also.

**7. ISSUE NO.2:-**

The charge against the workman was as follows:-

- A. That on 19-1-1987 when he was posted in the Branch of the Bank in Raipur as Officiating Head Cashier, he received Rs. 20,000/- each from the Head Cashier Basant Dalal & R.B .Sharma but did not deposit with the bank and kept this amount with him with an intention to mis-appropriate the amount. Thus committing misconduct as mentioned in para 19.5(j) of the Bi Partite Settlement which is as follows:-

**“Doing act prejudicial to the interest of the bank, gross negligence, including Bank in serious loss. “**

This charge was held proved by the Inquiry Officer. I have gone through the inquiry papers and the inquiry report. There is a statement of witness on oath supported by relevant documents MEX-1 to MEX-17 after perusal of evidence in the form of documents and statements on oath from both the sides during the inquiry, I find no occasion to dis-agree from the finding of the Inquiry officer that the charges are held proved against the workman, hence holding the charges proved against the workman, **Issue No.2 is answered accordingly.**

**8. ISSUE NO.3**

**Misconduct as defined under Rule 19.5(j) is punishable with dismissal and other serious punishments.** The workman in the case in hand has been punished with stoppage of two increments. The misconduct proved is an act of moral turpitude, which every workman is under obligation to work with utmost integrity and honesty as well as diligence in which the workman has failed. Normally the punishment of dismissal is awarded for charges involving lack of integrity in the case in hand. The Disciplinary Authority had adopted a rather lenient view in awarding punishment, hence the punishment awarded cannot be held to be disproportionate to the charges and **Issue No.3 is answered accordingly.**

**9. ISSUE NO.4:-**

In light of the findings recorded, earlier the action of Management is held just and proper and the workman is held entitled to no relief.

10. On the basis of the above discussion, following award is passed:-

- A. *The action of the management of Punjab National Bank, Chhattisgarh Zone, Madina Manzil, Raipur in awarding the punishment of bringing down to two stage lower in the scale of pay in terms of Para 6(e) of Bi Partite Settlement dated 10-4-2002 on Shri K.M.Ratre, Ex-CTO “B” Punjab National Bank B.O. Achanakmar vide letter dated 24-8-2006 is held to be legal and justified.*

- B. **The workman is held entitled to no relief.**

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 30-9-2022

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 342.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक प्रबंध तंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (112/2001) को प्रकाशित करती है ।

[सं. एल -12012/37/2001-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 342.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.112/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jablpur as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12012/37/2001— IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, JABALPUR

NO. CGIT/LC/R/112/2001

**Present:** P.K.SRIVASTAVA, H.J.S..( Retd)

Shri Ramesh Chandra Rathore,  
S/o Behrulal Rathore  
3/97, Sakwal Nagar, Sajjan  
Hill Road, Ratlam(MP)

... Workman

Versus

The Regional Manager,  
UCO Bank Regional Office,  
E-5 Arera Colony,  
Bhopal (M.P.)

... Management

#### AWARD

(Passed on 22-9-2022.)

As per letter dated 4/6/2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/37/2001(IR(B-II)) The dispute under reference relates to:

**“Whether the action of the Zonal Manager, UCO Bank, Bhopal in imposing the punishment of compulsory retirement w.e.f 31-8-1999 to the workman Shri Rameshchandra Rathore is justified or not?if not, what relief the workman is entitled to?.”**

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that a departmental inquiry was ordered against him while he was in service of the Management which was not conducted fairly rather was conducted in violation of all administrative procedures and service rules with a prejudiced set of mind against the workman. He was not given reasonable opportunity to defend himself during the inquiry. Material documents were not



provided to him. List of the witnesses were also not given to him. He was not permitted the service of Defence Assistant. The Inquiry Officer wrongly held that the charges were proved against him. The Disciplinary Authority passed the impugned punishment of compulsory retirement wrongly concurring with the finding of the Inquiry officer. The sentence itself is disproportionate to the charge. Accordingly it has been prayed that holding the act of management in compulsorily retiring the workman not justified, he be held entitled to reinstatement with all back wages and benefits.

3. The management has denied the allegations of workman as stated above and has pleaded that the inquiry was legal and properly conducted against the workman as per relevant rules prevailing at that time. The charges were rightly held proved against the workman and the punishment was also accorded according to the severity of the charge. Accordingly the Management has prayed that the reference be answered against the workman.

4. Vide his order dated 6-10-2006, following issues were framed by my learned Predecessor:-

**(1) Whether the departmental inquiry conducted by the Management against the workman is legal and proper? If not whether the Management is entitled to prove the misconduct of the workman?**

**(2) To what relief if any, is the workman is entitled to?**

5. Issue No.1 was taken as preliminary issue. The workman examined himself as witness. He was cross-examined by Management.

6. The management has filed affidavit of Shri Ghanshyam, the Branch Manager. He never appeared for cross-examination, hence his cross-examination could not be done.

7. As it comes out from perusal of record, that the workman died in the meanwhile. His legal representatives did not appear and have not been brought on record.

8. Though Advocate Shri R.K.Soni appeared for workman and submitted his arguments but since after death of his client, his engagement stands cancelled and L.R.S have never appeared. I have perused the records. The management side also did not appear at the time of arguments. They did not even prefer to file any written arguments.

9. It is further to mention here that the workman has admitted the inquiry papers which have been marked as Exhibits on the basis of his admission.

#### **10. ISSUE NO.1:-**

Pleadings of parties have been mentioned earlier on this point. In his affidavit as his examination in chief, the workman has corroborated his allegations on this issue. In his cross-examination he has admitted that he did not ask for any documents in writing by the Inquiry Officer. He also admits that the charge sheet which was served to him was in hind. He also admits that he had submitted his representation on charge sheet before inquiry. He admits that he made his signature in the inquiry proceedings dated 13-11-1998, 28-11-1998, 15-1-1999 and 10-4-1999 when he was showing the proceedings of this date but he states that he does not know whether he was present on this date or not. He also admits that he suggested one Amitabh Chatterjee as his Defense Assistant which was allowed by the Inquiry Officer. He also admits that he was given documents (copy) on 13-11-1998. He denies that he was given opportunity to lead his evidence and his Defense Witness which is against the inquiry proceedings as mentioned above. The workman has admitted copy of punishment Exhibit M-3 which is in hind, copy of show cause notice given to the workman on inquiry report which is Exhibit M-4, copy of memo of appeal which he filed before the Appellate Authority which is M-5 and copy of personal hearing accorded to him by the Appellate Authority which M-6 as well as copy of order of Appellate Authority which is Exhibit M-7. These documents goes to show that he was given opportunity of hearing before awarding punishment also. IN the light of these facts, holding the inquiry legal and proper against the workman, **Issue No.1 is answered accordingly.**

#### **11. ISSUE NO.2:-**

Issue No.2 is as follows. The following points arise in this issue:-

**(a) Whether the charges are proved?**

**(b) Whether the punishment is proportionate to the charge.**

12. As regards the first point, the charges against the workman were that he mis-behaved with his senior officer in the banking hour, secondly he dis-obeyed the lawful order of the Branch Manager and Thirdly he

willfully damaged the property of the Bank. These charges are serious misconduct in para 19.5 of Bi Partite Settlement. From perusal of inquiry proceedings of the date's admitted by the workman as mentioned in Issue No.1 it comes out that three eye witness have supported the charges. Hence the charges stand proved from the inquiry proceedings and findings of the Inquiry Officer is affirmed on this point.

13. As regards the proportionality of the punishment, it cannot be said to be harsh because the workman has been compulsorily retired.

14. In the light of these findings, the workman is held entitled to no relief and this issue is answered accordingly.

15. On the basis of the above discussion, following award is passed:-

**A. The action of the Zonal Manager, UCO Bank, Bhopal in imposing the punishment of compulsory retirement w.e.f 31-8-1999 to the workman Shri Rameshchandra Rathore is held justified.**

**B. The workman is held entitled to no relief.**

16. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 22-9-2022

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 343.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (22/2014) को प्रकाशित करती है ।

[सं. एल -12011/72/2002-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5<sup>th</sup> April, 2023

**S.O. 343.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.22/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12011/72/2002– IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/22/2014**

**Present:** P.K.SRIVASTAVA, H.J.S..( Retd)

The General Secretary,  
Akhil Bharitya Adhinasth Bank Karmachari Sangh,  
P.B.No.62,Roxy Pul, Kampoo road Lashkar  
Gwalior 474001.

... Workman

Versus

The Regional Manager  
Central Bank of India  
Regional Office Jhansi road,  
Gwalior-474001.

...Management

### AWARD

(Passed on 17-10-2022.)

As per letter dated 26/3/2014 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/72/2002-IR(B-II)pt.The dispute under reference relates to:

**“Whether the action of the management OF Central Bank of Aindia over alleged illegal terminationof service of Shri Deepak Shukla is legal and justified? What relief the workman is entitled to?” .”**

1. After registering the case on the basis of reference, notices were sent to the parties.
2. According to the workman he was initially appointed as peon on 1-3-1984. He worked continuously till 8-1-1991. His services were terminated by the management Bank without any notice or compensation. Hence it is in violation of Section 25G of the Industrial Disputes Act,1947 . The management did not follow the provision of Section 25G and 25H as well as Rule 77 and 78 of the Industrial Dispute Rules 1957, hence his termination is bad in law on ground also. Accordingly, he has requested that setting aside his termination, he be reinstated with back wages and benefits.
3. The case of the management is mainly that he was never appointed against any vacancy. He was simply a daily wager and used to work as and when required for one or two hours for which he was paid. He could not complete 240 days in continuous engagement of the management at any point of time, accordingly, it has been prayed that the reference be answered against the workman.
4. During the course of working, the workman filed an application directing management to file documents mentioned in the application. This application was allowed after hearing. The Management was directed to file the documents or file affidavit in support that they are not available .
5. According to the management these documents related to the year 1991, hence they are not available with them.
6. The workman has filed his affidavit. Non appeared for Management for cross-examination of the witness. He has proved Exhibit W-1, letter of management dated 15-9-1998 which goes to show that there was a proposal of regularization of part time cleaners in the Bank . He was required to appear with the details of job done by him in the Bank.
7. I have heard learned counsel for the Workmant and none was present from the side of the Management. No written argument was filed by both the parties.
8. **The Reference is issue for determination in the case in hand.**
9. Except the uncontroverted affidavit of the workman, there is nothing on record to substantiate this case. According to the workman himself, he was terminated on 8-8-1991. He raised the dispute in the year 2014, hence, his claim is also barred by delays and latches.
10. IN the light of the above discussion, the workman is held entitled to no relief, holding the action of management in accordance with law.
11. On the basis of the above discussion, following award is passed:-
  - A. **The action of the managementof Central Bank of India over termination service of Shri Deepak Shukla is held to be just and legal**
  - B. **The workman is held entitled to no relief.**
12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 17-10-2022

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 344.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ (सं. 108/2018) को प्रकाशित करती है ।

[सं. एल -12011/26/2018-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 344.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.108/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen.

[No. L-12011/26/2018– IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, JABALPUR

NO. CGIT/LC/R/108/2018

**Present:** P.K.SRIVASTAVA, H.J.S..( Retd)

The General Secretary,  
Dainik Vetan Bhogi Bank Karmachari Sangathan  
F-1 Tripti Vihar,Opp.Engineering College  
Ujjain(M.P.)

... Workman

Versus

The Zonal Manager  
Bank of India  
Ujjain(M.P.)

... Management

#### AWARD

(Passed on 21-9-2022.)

As per letter dated 30-11-2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/26/2018-IR(B-II). The dispute under reference relates to:

“Whether the allegations of the Union that the action of the management of “Bank of India by (i)not giving appointment letter/termination letter(ii)payment was not made as per pay scale/skill wage(iii) Minimum Wages not paid(iv)Muster Roll has not been maintained as per Section 25D

**of the ID Act(v) applicants have worked 240 days in a year (vi) After working for 06 days.the wages of weekly off and National Holidays 26<sup>th</sup> January,15<sup>th</sup> August were deducted etc. amounts to alleged unfair Labour Practice? if so, what relief they are entitled to? .”**

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that he was appointed by Management Bank as a Driver cum Security guard and worked their continuously from 17-12-2009 to 18-11-2012. He was given minimum wages on collector rate whereas he was entitled to wages at par with the other employees discharging the same duties in the Bank as mentioned in Desai Award. Accordingly, it has been prayed that he be held entitled to equal wages at par with regular employees discharging similar duties.

3. The case of management is mainly that the workman was not appointed against any sanctioned vacancy following recruitment Rules provided for Banks. He was engaged as a driver by some Officer of the Bank who was paid allowance for this and was paid by that Officer. He was never appointed by the Bank as a daily wager. He never worked with Bank regularly in 240 days in every year, hence he is not entitled to any claim regarding equal wages as per the Desai Award. Accordingly the Management has requested that the reference be answered against the workman.

4. No evidence was adduced by the workman during the proceedings. He did not even examine himself, hence the reference proceeded ex-parte against the workman vide order dated 16-12-2021.

5. The Management filed affidavit of its witness which is uncross-examined.

6. I have heard argument of learned counsel for Management. None appeared for the workman. He did not file any written argument also. I have gone through the records.

**7. The Reference itself is the issue for determination in the case in hand.**

8. The initial burden to prove his claim is on the workman. He has miserably failed to discharge this burden by not adducing any oral or documentary evidence in this regard. On the other hand the management witness has proved its case, hence in the light of these facts, holding the claim of the workman not proved the reference deserves to be answered against the workman and is answered accordingly.

9. On the basis of the above discussion, following award is passed:-

**A. The allegations of the Union as mentioned in the reference is held not justified in law and fact.**

**B. The workman is held entitled to no relief.**

10. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K.SRIVASTAVA, Presiding Officer

DATE: 21-9-2022

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 345.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया प्रबंध तंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ सं. 107/2018) को प्रकाशित करती है ।

[सं. एल -12011/24/2018-आई आर (बी-II)]

सलोनी, उप निदेशक



New Delhi, the 5th April, 2023

**S.O. 345.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.107/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen.

[No. L-12011/24/2018–IR(B-II)]

SALONI, Dy. Director

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/107/2018**

**Present:** P.K. SRIVASTAVA, H.J.S..( Retd)

The General Secretary,  
Dainik Vetan Bhogi Bank Karmachari Sangathan  
F-1 Tripti Vihar,Opp.Engineering College  
Ujjain(M.P.)

Versus

... Workman

The Zonal Manager  
Bank of India  
Ujjain(M.P.)

... Management

## AWARD

**(Passed on 21-9-2022.)**

As per letter dated 30-11-2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/24/2018-IR(B-II). The dispute under reference relates to:

**“Whether the allegations of the Union that the action of the management of “Bank of India by (i)not giving appointment letter/termination letter(ii)payment was not made as per pay scale/skill wage(iii) Minimum Wages not paid(iv)Muster Roll has not been maintained as per Section 25D of the ID Act(v) applicants have worked 240 days in a year (vi) After working for 06 days.the wages of weekly off and National Holidays 26<sup>th</sup> January,15<sup>th</sup> August were deducted etc. amounts to alleged unfair Labour Practice? if so, what relief they are entitled to? .”**

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that he was appointed by Management Bank as a Badli Sepoy and worked their continuously from 20-9-2006 to 12-7-2008. He was given minimum wages on collector rate whereas he was entitled to wages at par with the other employees discharging the same duties in the Bank as mentioned in Desai Award. Accordingly, it has been prayed that he be held entitled to equal wages at par with regular employees discharging similar duties.

3. The case of management is mainly that the workman was not appointed against any sanctioned vacancy following recruitment Rules provided for Banks. He was engaged as a Badli Sepoy. He was never appointed by the Bank as a daily wager. He never worked with Bank regularly in 240 days in every year, hence he is not entitled to any claim regarding equal wages as per the Desai Award. Accordingly the Management has requested that the reference be answered against the workman.

4. No evidence was adduced by the workman during the proceedings. He did not even examine himself, hence the reference proceeded ex-parte against the workman vide order dated 16-12-2021.

5. The Management filed affidavit of its witness which is uncross-examined.

6. I have heard argument of learned counsel for Management. None appeared for the workman. He did not file any written argument also. I have gone through the records.

**7. The Reference itself is the issue for determination in the case in hand.**

8. The initial burden to prove his claim is on the workman. He has miserably failed to discharge this burden by not adducing any oral or documentary evidence in this regard. On the other hand the management witness has proved its case, hence in the light of these facts, holding the claim of the workman not proved the reference deserves to be answered against the workman and is answered accordingly.

9. On the basis of the above discussion, following award is passed:-

**A. The allegations of the Union as mentioned in the reference is held not justified in law and fact.**

**B. The workman is held entitled to no relief.**

10. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 21-9-2022

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 346.—** औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोचीन पोर्ट ट्रस्ट प्रबंध तंत्र के सबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण ऐर्नाकुलम के पंचाट संदर्भ सं. (29/2015) को प्रकाशित करती है ।

[सं. एल-35011/01/2015-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 346.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.29/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ernakulam as shown in the Annexure, in the industrial dispute between the management of Cochin Port Trust and their workmen.

[No. L-35011/01/2015– IR(B-II)]

SALONI, Dy. Director

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT,  
ERNAKULAM**

**Present:** Shri. V .VIJAYA KUMAR, B. Sc, LLM, Presiding Officer.

(Wednesday the 22<sup>nd</sup> day of June 2022, 1 Asadha 1944)

**ID No. 29/2015**

Workman/Union : The General Secretary  
Cochin Port Staff Association  
Willington Island  
Kochi – 682009

By Adv.A. V. Xavier

Management : The Chairman  
Cochin Port Trust  
Willington Island  
Kochi – 682009

By M/s.B. S. Krishnan Associates

This case coming up for final hearing on 22.06.2022 and the same day this Tribunal-cum-Labour Court passed the following:

### AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No. L-35011/01/2015-IR(B-II) dated 19.06.2015 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

**“Whether the action of the Management of Cochin Port Trust in not regularizing the adhoc promotion in time, resulting in loss of terminal benefits to Sri.H.Synudeen is justified, if not, to what relief he is entitled to ? “**

3. The claim is filed by Cochin Port Staff Association, a registered Union. Union is competent to raise the industrial dispute of its members. Sri.H.Synudeen was working as HSK in the Mechanical Engineering Department of the Management and was promoted as HSK-1 (PH) on adhoc basis w.e.f. 30.01.2008 vide order dt.11.03.2008. Later he was promoted as Assistant Foreman (PH) w.e.f. 01.12.2009. The workman was promoted to the post of Assistant Foreman (PH) w.e.f. 01.12.2009 on adhoc basis without regularizing him in the post of HSK-1 (PH). On 29.11.2013 he submitted a representation before Chief Mechanical Engineer (CME) of the Management requesting for regularization in the post of Assistant Foreman. Instead of regularizing his service as Assistant Foreman, the workman was reverted to the post of HSK (PH) on 13.03.2014. Finding that there is a mistake in the order, the Management issued another order on 27.03.2014 reverting the workman to HSK-1 (PH). Thereafter his promotion to HSK-1 (PH) was regularized w.e.f. 15.03.2014. The regularization in the post of HSK-1 (PH) happened after 6 years and 2 months on adhoc basis in that post. Thereafter the workman was promoted as Assistant Foreman (PH) w.e.f. 16.05.2014 vide order dt.20.05.2014, in the place of Sri.P. P. Thomas, Assistant Foreman (PH) who retired as far back as 30.11.2009. The workman was promoted to the post of Assistant Foreman (PH) w.e.f. 01.12.2009 on adhoc basis. The workman worked as Assistant Foreman (PH) on adhoc basis for 5 years though there was a regular vacancy available as on that date. Regular vacancy and post was in existence for HSK-1 (PH) and Assistant Foreman (PH) for the period of 6 years and 5 years w.e.f. 30.01.2008 and 01.12.2009 respectively. But the regularization was effected from 15.03.2014 and 16.05.2014 respectively. As per Schedule of Employees of the Management for the year 2008, there is only one post of HSK-1 (PH). There is no reservation for single post. The Management administration clarified the same vide norms dt.27.12.2013 and 23.01.2014. The Management during the conciliation proceedings before the Deputy Chief Labour Commissioner had taken a position that adhoc promotion was done against the vacancy post reserved for SC. This is an incorrect stand taken by the Management before the Deputy Chief Labour Commissioner. It is settled by judgment in various decisions of Apex Court that when single post was in the offering, reserving it for specified Back Ward Classes would amount to 100% reservation and is contrary to the intent of Constitutional framers. A person who is promoted on adhoc basis cannot continue in that post indefinitely. In the present case the workman worked for more than 6 years in the post of HSK-1 (PH) on adhoc basis. A regular post and vacancy was in existence at the time when the workman was promoted on adhoc basis. There are many instances where the workman's category and feeder category post by the Management were regularized against the date on which

these employees were given adhoc promotion without reversion. The workman should be regularized w.e.f. 30.01.2008, the date of the 2<sup>nd</sup> meeting of Departmental Promotion Committee (DPC). Had the regularization in the post from the date of existence of the original vacancy of HSK-1 (PH) and Assistant Foreman (PH) were given to the workman, he could have exercised the option and got one more increment at the time of retirement. The workman was denied the benefits due to erroneous adhoc promotion, then reversion, thereafter corrective order and finally belated regularization.

4. The Management filed written statement denying the above allegations. The workman never raised any dispute till he retired from service. Sri.H.Synudeen is a retired employee and the Union has no locus standi to raise the dispute. The Management is a statutory body constituted under the Major Port Trust Act. The workman, Driver (PH) HSK was promoted as HSK-1 (PH) w.e.f. 30.01.2008 on adhoc basis vide office order dt.11.03.2008. He was promoted as against the vacancy reserved for SC as per Roster and hence his promotion was done on adhoc basis. As per the proceedings of Departmental Promotion Committee (DPC), the sanctioned strength of HSK-1 (PH) was 4. At that time it was a practice that adhoc promotions were made from the unreserved candidates against the SC/ST points due to operational requirements, in cases where no SC/ST candidates are available in the feeder category. Subsequently the workman was promoted on adhoc basis as Assistant Foreman (PH) counting the vacancy of Foreman (PH). The reversion of the workman from the post of Assistant Foreman is legal and valid. As per orders, regularization can be made only in clear vacancies. Adhoc promotion can be considered for the vacant post from among the eligible candidates in the feeder category. The workman was promoted on adhoc basis as the post was reserved for Scheduled Cast. Since there was no clear vacancy of Assistant Foreman (PH), Sri.H.Synudeen was not regularized. Subsequently he was reverted to the original post of HSK-1 (PH). The workman enjoyed all the benefits due to the adhoc promotions on HSK-1 (PH) and Assistant Foreman (PH). The workman never raised any dispute regarding his adhoc promotions till the date of his retirement. As per the Departmental Promotion Committee dt.15.03.2014 and 29.03.2015, it was decided to regularize the workman in the post of HSK - 1 w.e.f. 15.03.2014. As per General Rule, the promotion of officials included in the panel would be regular from the date of validity of the panel or date of promotion whichever is later. Therefore the date of promotion will be the date of actual promotion or the date of DPC meeting in the case of persons already holding the higher post on adhoc basis. The entitlements if any, will be available only prospectively and not retrospectively. The workman was promoted to the post of Assistant Foreman (PH) on adhoc basis since he was not fulfilling the eligibility criteria as he was holding an adhoc post in the feeder post. His promotion to the post of Assistant Foreman (PH) was subject to the condition that he would continue his duties and responsibilities as he was doing before his promotion. His promotions were regularized w.e.f. 15.03.2014 and 16.05.2014. He is not entitled to get regularization retrospectively.

5. The Union filed rejoinder in terms of claim statement and denying the allegations in the written statement filed by the Management. The allegation in the written statement that the workman has not raised any dispute till he retired, is not correct. The workman vide his letter dt.27.01.2011 had taken up the matter before the Management through proper channel for regularizing him in the post of HSK-1 and Assistant Foreman. The request was rejected by the Management vide their reply dt.04.04.2011. The workman again made a representation on 29.11.2013 requesting to regularize him in the promoted post. He did not receive any reply from the Management. Since there was no reply, the Union took up the matter vide letter dt.02.06.2014, with a copy to Deputy Chief Labour Commissioner (Central). Further the Union vide letter dt.02.06.2014 had taken up the matter before Deputy Chief Labour Commissioner (Central) citing the irregularity in regularization of the adhoc promotions. Hence the workman and the Union had taken up the matter of regularization well before his retirement on 30.04.2015. The Union also filed its reply before the Deputy Chief Labour Commissioner (Central) to the comments of the Management on 25.02.2015. In view of the above, the Union is eligible and competent to raise this industrial dispute. The workman was promoted as Assistant Foreman (PH) on adhoc basis w.e.f. 01.12.2009 when he was working as HSK-1 (PH) on adhoc basis. The workman ought to have been regularized in the post of HSK-1 (PH) before his promotion to the post of Assistant Foreman (PH). The workman therefore represented to the Management to regularize his service in the post of HSK-1 and Assistant Foreman. Instead of promoting, the workman was reverted to the post of HSK-1 (PH). The workman was promoted to the post of Assistant Foreman (PH) w.e.f. 16.05.2014 against a clear vacancy of Sri.P. P. Thomas, Assistant Foreman (PH) who retired from the service of the Management. The contention of the Management that the workman was promoted to the post of HSK-1 (PH) against a reserved vacancy for SC as per Roster is completely wrong. There was only one post of HSK-1 (PH) in the year 2008. The Govt of India instructions on adhoc basis clearly stipulates that the adhoc promotions has to be only for a barest minimum period. The workman worked for more than 6 years in adhoc position in spite of the fact that there was clear vacancy. The workman was denied the right retirement benefits because of the illegal and unlawful action on the part of the Management. The workman was promoted as HSK-1 (PH) w.e.f. 30.01.2008 consequent upon the promotion vacancy of Sri.M. C. Antony as Assistant Foreman (PH) vide

order dt.11.03.2008. It is pointed out that Sri. P. V. Balan, Oilman (PH) was promoted as Driver (PH) w.e.f. 30.01.2008 vide order dt.10.06.2010. A vacancy in HSK-1 existed on 30.01.2008, the Management regularized the workman only w.e.f. 13.03.2014. The vacancy of HSK existed w.e.f. 30.01.2008 till 12.02.2014. Without promoting and regularizing the workman in the post of HSK -1, the vacancy of HSK (PH) would not have occurred and Sri.P. V. Balan could not have been promoted and regularized w.e.f. 30.01.2008. The Management kept the vacancy of HSK-1 stating that the vacancy is reserved Roster point of SC from 30.01.2008 till 12.02.2014. Further the workman was regularized in the post of Assistant Foreman (PH) w.e.f. 16.05.2014 should have been regularized in the post of Assistant Foreman from 01.12.2009 due to the resultant vacancy of Sri. P.P. Thomas, Assistant Foreman (PH) retired on 30.11.2009.

6. The Union filed IA no.169/2016 seeking to direct the Management to produce additional documents. The Management produced 15 documents as requested by the Union and with regard to item no.15, the note to the Executive Engineer (Electrical) dt.07.07.2009 issued by the Deputy Chief Mechanical Engineer, the Management submitted that the same could not be located.

7. After completion of pleadings, the Union examined WW1 and marked 18 documents, Exbts.M1 to M10 and W1 to W8. The Union also examined WW2. The Management examined MW1 and marked Exbts.M11 to M22.

8. The issues to be considered in this dispute are

1. Whether the industrial dispute is maintainable ?
2. Whether the action of the Management in not regularizing the adhoc promotion of the workman in time resulting in loss of terminal benefits to the workman, is justified ?
3. Relief and cost ?

#### **9. Issue no.1**

The learned Counsel for the Management pointed out that the workman has not raised any displeasure regarding his regularization till he retired from his service. It is also pointed out that the Union also has not raised any dispute in this regard before his retirement. The workman is a retired employee and, therefore, according to him, the Union has no locus standi to raise the dispute. According to the learned Counsel for the workman the workman raised the issue regarding his regularization when he was in service and since he was an employee when he raised the dispute, the industrial dispute is very much maintainable. Exbt.W2 dt.27.01.2011 is a representation given by the workman to the Chief Mechanical Engineer of the Management, specifically stating that his promotion as HSK-1 and as Foreman as on 11.03.2008 and 11.12.2009 continues to be adhoc and requested that he may be regularized in the respective posts. Exbt.W3 dt.04.04.2011 is the reply given by the Chief Mechanical Engineer informing the workman that his request cannot be considered. Exbt.W4 dt.29.11.2013 is another request given by the workman to the Chief Mechanical Engineer, Cochin Port Trust to regularize his service. According to the learned Counsel for the workman, no reply is given to the above representation. Exbt.W5 dt.02.06.2014 is a representation given by the Cochin Port Staff Association to the Chief Mechanical Engineer with a copy to the Chairman, Cochin Port Trust and Deputy Chief Labour Commissioner (Central) to regularize the service of the workman and Exbt.W6 dt.02.06.2014 is a representation given by the Association to the Deputy Chief Labour Commissioner(Central). The workman retired from the service on April 2015. From the above, it is very clear that the dispute is raised by the workman and the Union when he was in service and therefore the claim of the Management that the workman never raised the dispute when he was in service is not correct. Hence the workman and the Union has the locus standi to raise the industrial dispute and the same is maintainable.

Hence the issue regarding maintainability is decided in favour of the Union and against the Management.

#### **9. Issue no.2**

According to the learned Counsel for the Union, the workman was promoted as HSK-1 (PH) on adhoc basis w.e.f. 30.01.008 and subsequently promoted as Assistant Foreman (PH) w.e.f. 01.12.2009 on adhoc basis. According to the learned Counsel, the DPC which considered the promotion of the workman on adhoc basis as HSK-1 (PH) committed a mistake of taking 4 posts in HSK – 1 (PH) as on the date of the DPC. It is pointed out by the learned Counsel that there was only one post of HSK-1 (PH) as on the date of the DPC as 3 posts of HSK-1 (PH) was upgraded to Assistant Foreman (PH). The DPC while taking the 4 posts has considered the Roster point as SC and therefore, the workman as a general candidate was promoted on adhoc basis. The workman was thereafter regularized in service w.e.f. 15.03.2014, after working on adhoc basis for more than 6 years.



10. According to the learned Counsel for the Management, the workman was promoted on adhoc basis as HSK-1 (PH) w.e.f. 30.01.2008 vide office order dt.11.03.2008. According to him, he was promoted to the post of HSK-1 (PH) as against the vacancy reserved for SC as per Roster. Hence his promotion was done on adhoc basis. It is clear from the proceedings of Departmental Promotion Committee that the sanctioned strength of HSK-1 (PH) was 4. The workman enjoyed all the benefits on adhoc promotion as HSK-1 (PH) against the post reserved for SC.

11. The learned Counsel for the Union denied the claim of the Management that there were 4 posts of HSK-1 (PH) as on the date of adhoc promotion of the workman. He relied on the Exbt.M11 Post Based Roster wherein it is clearly mentioned that “ 2 Posts of HSK-1 (PH) had been upgraded as Assistant Foreman (PH) w.e.f. 23.10.1998, accordingly the cadre strength of HSK-1 (PH) became single post w.e.f. 23.10.1998 and Roster need not be maintained as reservation rules does not apply for the single post cadre”. The learned Counsel for the Union also relied on Exbt.M12, true copy of the relevant pages of Post Based Roster to the post of Chageman (PH) later re-designated as HSK-1 and again re-designated as Assistant Foreman w.e.f. 31.08.1998 that 2 posts were upgraded as Assistant Foreman w.e.f. 31.08.1998 vide Chairman’s order no.A8/2215/CC/98/S dt.21.10.1998. Further as per Exbt.M8, Schedule of Employees as on 01.04.2007 of Cochin Port Trust, the number of sanctioned post of HSK-1 (PH) as on 12.04.2007 is only one. It is also seen from the DPC proceedings dt.15.03.2014, Exbt.M17 and also Departmental Review Committee proceedings dt.29.03.2014, Exbt.M18 that there were 3 posts of HSK-1 (PH) in Electrical Division upto 1998. 2 posts out of 3 had been upgraded as Assistant Foreman (PH) as per Chairman’s order no. A8/ 2215/CC/98/S dt.21.10.1998 and the office order no.A4/Upgradation/ 98-M dt.23.10.1998. The cadre strength of HSK-1 (PH) is single from 23.10.98 onwards. A cumulative reading of all the evidence adduced by the Union and also the deposition by WW1, WW2 and also MW1, it is clear that the sanctioned strength in HSK-1 (PH) as on 2008 was only one as 2 posts of HSK-1 (PH) had already been upgraded as Assistant Foreman (PH) w.e.f. 23.10.1998. According to the learned Counsel for the Union, the rules of reservation are not applicable for a single post. In Exbt.M7 dt.23.01.2014, a note to the Chief Mechanical Engineer, Cochin Port Trust, the Senior Deputy Secretary from Administrative Office of the Management clarified that “ As per Reservation Rules for SC/ST, reservation does not apply to ‘Single post cadres’ ”. Further Exbt.M11 and M17 clearly stated the rule position that Reservation Rules for SC/ST, reservation does not apply to single post cadres. Hence it is clear from the forgoing discussion and evidence that the Exbt.M13 DPC note stating that there are 4 posts of HSK-1 and the Roster point for the existing vacancy falls on SC is apparently wrong. The Departmental Promotion Committee (DPC) recommended adhoc promotion for the workman only due to the fact that the Roster point falls on SC and since no SC candidate was available as on the date of DPC. As already pointed out, HSK-1 (PH) is a single post and for single post Rules of Reservation are not applicable. Therefore the decision of the DPC to promote the workman on adhoc basis is not correct.

12. According to the learned Counsel for the Union, the workman was promoted as Assistant Foreman (PH) on adhoc basis w.e.f. 01.12.2009. It is seen from Exbt.M2 order dt.11.12.2009 that he was promoted against the retirement vacancy of Sri.P. P. Thomas, Assistant Foreman (PH). According to the Counsel, Sri.P. P. Thomas was not holding the post on adhoc basis. Hence there is no justification on the part of the Management in promoting the workman on adhoc basis w.e.f. 01.12.2009. According to the learned Counsel for the Management for promotion to the post of Assistant Foreman (PH), the feeder category is HSK-1 (PH) and since the workman was holding the post of HSK-1 (PH) on adhoc basis, he was not eligible to be considered for regular promotion. Further his promotion was made on adhoc basis to the post of Assistant Foreman counted against the post of Foreman (PH). So there was no clear vacancy of Assistant Foreman (PH) and the workman was not fulfilling the eligibility criteria as he was holding the feeder post on adhoc basis. The question regarding the eligibility criteria in the feeder post is due to the wrong facts and also wrong interpretation of law as pointed out above. With regard to the question of non availability of clear vacancy, the case of the workman is that he was promoted against the retirement vacancy of Sri.P. P. Thomas, Assistant Foreman (PH) who has holding the post on regular basis. There is no case for the Management that Sri.P. P. Thomas was holding the post of Assistant Foreman (PH) on adhoc basis.

Taking into account the above facts and evidence on record, it is established that the action of the Management in not regularizing the adhoc promotion in time resulted in loss of terminal benefits to the workman.

### 13. Issue no.3

In view of the findings in Issue no.1 and 2, the Management is not justified in not regularizing the adhoc promotion of the workman in time resulting in loss of terminal benefits. The workman is entitled for regularization of promotion to the post of HSK-1 (PH) w.e.f. 30.01.2008 and to regular promotion to the post of

Assistant Foreman (PH) w.e.f. 01.12.2009. The workman is also eligible to exercise option for fixation benefits and consequential terminal benefits.

14. Hence an award is passed holding that the action of the Management of Cochin Port Trust in not regularizing the adhoc promotion in time resulting in loss of terminal benefits to the workman is not at all justified. The workman is entitled for regular promotion as HSK-1 (PH) w.e.f. 30.01.2008 and to the post of Assistant Foreman (PH) w.e.f. 01.12.2009 and to exercise option for pay fixation and is also entitled for consequential revision of terminal benefits.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 22<sup>nd</sup> day of June, 2022.

V. VIJAYA KUMAR, Presiding Officer

#### APPENDIX

##### Witness for the Worker:-

- WW1 - Sri.H. Synudeen, dt.17.01.2020  
WW2 - Sri.Thomas Sebastian, dt.18.02.2020

##### Witness for the Management:-

- MW1 - Smt.A. S. Latha., dt.25.11.2021

##### Exhibits for the Worker:-

- W1 - Copy of note to Executive Engineer(Electrical) dt.07.07.2009 issued by Dy. Chief Mechanical Engineer, Management  
W2 - Copy of representation of workman dt.27.01.2011 to the Chief Mechanical Engineer, Cochin Port Trust  
W3 - True copy of letter of the Chief Mechanical Officer, Cochin Port Trust dt.04.04.2011 issued to workman  
W4 - Copy of representation of workman dt.29.11.2013 to the Chief Mechanical Engineer, Cochin Port Trust  
W5 - Copy of letter of the Union dt.02.06.2014 addressed to the Chief Mechanical Engineer, Cochin Port Trust  
W6 - Copy of letter of the Union dt.02.06.2014 addressed to the Dy. Chief Labour Commissioner(C), Ernakulam  
W7 - Copy of Rejoinder submitted by the Union dt.25.02.2015 to the Dy. Chief Labour Commissioner(C), Ernakulam  
W8 - Copy of representation of workman dt.10.06.2015 to the Chairman, Cochin Port Trust  
M1 - Copy of order dt.11.03.2008 issued by Chief Mechanical Engineer, Cochin Port Trust  
M2 - Copy of order dt.11.12.2009 issued by Chief Mechanical Engineer, Cochin Port Trust  
M3 - Copy of order dt.13.03.2014 issued by Chief Mechanical Engineer, Cochin Port Trust  
M4 - Copy of order dt.27.03.2014 issued by Chief Mechanical

- Engineer, Cochin Port Trust
- M5 - Copy of order dt.31.03.2014 issued by Chief Mechanical Engineer, Cochin Port Trust
- M6 - Copy of order dt.20.05.2014 issued by Chief Mechanical Engineer, Cochin Port Trust
- M7 - Copy of note to the Chief Mechanical Engineer, Cochin Port Trust dt.23.01.2014
- M8 - Copy of Schedule of Employees of Management as on 01.04.2007
- M9 - Copy of the order dt.31.12.2001 issued by the Office of the CME
- M10- Copy of the order dt.05.04.2002 issued by the Office of the CME

**Exhibits for the Management:-**

- M11 - True copy of the relevant pages of Post Based Roster to the post of HSK-1
- M12 - True copy of the relevant pages of Post Based Roster to the post of Charge Man (PH) (later re-designated as HSK-1)
- M13 - True copy of the proceedings of the Departmental Promotion Committee dt.30.01.2008
- M14 - True copy of the proceedings of the Departmental Promotion Committee dt.01.12.2009
- M15 - True copy of the order dt.13.03.2014 issued by the Office of the CME
- M16 - True copy of the order dt.05.04.2011 issued by the Office of the CME
- M17 - True copy of the proceedings of the Departmental Promotion Committee dt.15.03.2014
- M18 - True copy of the proceedings of the Review Departmental Promotion Committee dt.29.03.2014
- M19 - True copy of the order dt.31.03.2014 issued by the Office of the CME
- M20 - True copy of the proceedings of the Departmental Promotion Committee dt.16.05.2014
- M21 - True copy of the order dt.20.05.2014 issued by the Office of the CME
- M22 - True copy of the order dt.11.12.2009 issued by the Office of the CME

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 347.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ सं. (101/2006) को प्रकाशित करती है ।

[सं. एल- 12011/81/2006-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 347.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 101/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Dhanbad as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/81/2006—IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

**Reference: No. 101/2006**

Employer in relation to the management of UCO Bank

AND.

Their workman.

Present: Shri DINESH KUMAR SINGH, Presiding Officer.

#### Appearances:

For Employer :- Sri S.N.Ghosh, Advocate.

For Workma :- Sri B. Prasad, Representative.

State : Jharkhand

Industry:- Banking

Dated 30/09 /2022

#### AWARD

By Order No.L-12011/81/2006-IR(B-II) dated 10.11.2006 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

#### SCHEDULE

**“Whether the action of the management of UCO Bank in not regularising the services of Sh. Akal, Part-time Sweeper in 1/3<sup>rd</sup> scale wages of subordinate cadre is legal and or justified? If not, what relief Sh. Akal is entitled to?”**

2. The reference is received on 06/12/2006 by this Tribunal in which the State Secretary, UCO Bank Employees Association, had been advised to submit statement of claim along with relevant document within fifteen days but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed and both the parties appeared for certain dates. Further during the pendency of the case, the Representative of Union Sri B.Prasad appeared on 03/06/2022 and informed that the concerned workman is not interested to contest the case no dispute award may be passed. Hence “No Claim” Award is passed. Communicate.

D.K. SINGH, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 348.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक प्रबंध तंत्र के सबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 धनबाद के पंचाट संदर्भ सं. (03/2013) को प्रकाशित करती है ।

[सं. एल -12012/66/2012-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 348.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Dhanbad as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12012/66/2012– IR(B-II)]

SALONI, Dy. Director

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

**Reference: No. 03/2013**

Employer in relation to the management of UCO Bank, Zonal Office

AND.

Their workman.

Present: Shri Dinesh Kumar Singh Presiding Officer.

#### Appearances:

For Employer :- Sri S.N. Ghosh, Advocate.

For workman :- Sri D.S. Sinha, Advocate.

State : Jharkhand.

Industry:- Coal

Dated 29/08 /2022

### AWARD

By Order No.L-12012/66/2012 (IR(B-II)) dated 31.01.2013, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

### SCHEDULE

**“Whether the management of UCO Bank has obtained the services of the workman on regular basis for the period between 2006 to 2011 and if so whether the action of the management of UCO Bank in terminating the services of Shri Pramod Kumar Mishra w.e.f. 19.02.2011 is legal and justified? What relief the disputant workman is entitled to?”**

2. The Tribunal in this matter has passed an award on 08/09/2015 holding that on considering the facts and circumstances, management is directed to take the workman as casual employee on prevalent wages and to comply this award within a month from the date of publication of award.

3. The concerned workman namely Pramod Kumar Mishra being aggrieved by the said award filed a writ petition bearing CWJC No. 3844 of 2016 before the Hon'ble High Court of Patna. The Hon'ble High Court of Patna has been pleased to set aside the said award dated 08/09/2015 passed by this Tribunal and remanded the case back to the Central Govt. Industrial Tribunal No.1, Dhanbad for passing the award afresh after giving an opportunity of hearing to the parties in accordance with law in the light of the observations made above.

4. After production of the order of Hon'ble High Court of Patna passed in CWJC No. 3844 of 2016 on 08/02/2019 sufficient opportunities were given to both the parties and both the parties were heard at length again.

5. The case of the concerned workman namely Pramod Kumar Mishra as per his written statement is as follows:-

That he was appointed on the post of Computer Operator in Jaipur Branch of UCO Bank on daily wages on payment of Rs. 100/- as per a verbal order by the L.D.M. Banka on 27/01/2006 as the post was permanent and perennial in nature. In course of service he had submitted a request letter for increasing his daily wages from Rs. 100/- to Rs. 200/- as per work load and the Branch Manager Jaipur Branch of UCO Bank had forwarded his letter to L.D.M. Banka on 17/05/2006 for seeking permission to increase his daily wage as prayed for. He has been paid daily wages by the Branch Manager through vouchers by the end of the week after getting his signatures and the said vouchers were lying in the custody of Jaipur Branch. The Branch Manager of UCO Bank Jaipur had taken his service as Accounts Clerk, Cashier etc and in this way he had rendered his services to the Bank for more than 240 days continuously for five years in the said Bank but in spite of his continuous services he was verbally terminated from the services on 19/02/2011 without giving any previous notice which is a mandatory requirement U/s 25 (F) r/w section 2 (oo) of the I.D. Act 1947 and the same utter violation of the Act, so his termination is not justified. The management of UCO Bank had given wrong information on his application under R.T.I. Act, 2005 that detail vouchers were available for the period of year 2006 to 24.03.2008 only totaling 176 pages but on appeal to the Appellate Authority-cum-Circle Chief Officer the earlier information was corrected and all the vouchers for the period from 07/04/2008 to 19/02/2011 totaling 136 pages were provided. He had rendered the services in the Bank as Computer Operator which comes in the category of permanent nature but because of anti-labour practices of the management of Bank his payment was made as daily wages worker and the management had illegally and arbitrarily reduced his payment of daily wages to Rs. 100/- per day from 01/02/2010 to 19/02/2011. The management had violated the mandate of Section 25 (F) of I.D. Act and illegally and arbitrarily terminated him from service whereas he had rendered his services for more than five years and he is entitled to be regularized after completion of full period of 240 days continuously.

The concerned workman has made prayer to pass an Award in this favour.

6. On the other hand the case of the management of UCO Bank Jaipur Branch as per its written statement is as follows:-

That the present reference is not maintainable either in law or in facts as no employer employee relationship existed between the claimant Pramod Kumar Mishra and the management of UCO Bank. The UCO Bank is a Nationalized Bank and that being the position the UCO Bank is State within the meaning of Article 12 of the Constitution of India and obliged to function within the parameter of Article 14 and 16 of the Constitution of India in the matter of appointment. All the appointment made in the Bank are on the sanctioned

post against the existing vacancies after issuance of advertisement. The Branch Manager of the Bank has not been authorized to make any appointment against any sanctioned or unsanctioned post. There was no such vacancy of Computer Operator in Jaipur Branch and the concerned workman namely Pramod Kumar Mishra had never been engaged as regular employee and the Bank had not made regular payment to him. The Branch Manager had no power to appoint any regular workman in the Branch without advertising vacancy as per norms of the Banking recruitment. The concerned workman was engaged time to time on outsourcing basis for helping in extra work of the Branch and Branch had made payment as per his work purely on daily basis. The concerned workman Pramod Kumar Mishra had himself left work since 09/02/2011 willfully as the Bank did not agree to pay as per his demand.

The management by way of rejoinder has stated that the statement made in paragraph No. 1 to 3 of the written statement of the concerned workman are matter of records, the statement made in paragraph No. 4 and its Sub Para (i) to (V) of the written statement of the concerned workman is not correct, the statement made in paragraph No. 5 of the written statement of the concerned workman is a matter of record and the statement made in Paragraph No. 6 (A), 6(B), 6(C), 6(D) & 6(E) of the written statement of workman are not correct and the statement made in Paragraph No. 6(F) of written statement of concerned workman is not relevant.

7. The concerned workman has filed rejoinder to the written statement of the management in which it is mentioned that all the averments made in the written statement of management are totally vague, manipulated and contrary to the fact and circumstances. It has been further stated that the management had intentionally discriminated the locus-standi of casual workers on the wrong interpretation of law, and law is very much clear that if a workman had rendered services for continuous service at least 240 days in a calendar year, he is legally entitled for regularization in service irrespective of the fact that he was a casual workman. It has been also stated that there is mandatory provision under section 25 (F) and section 2(oo) of the I.D. Act that before termination it is condition precedent that workman must be given prior notice but the management had violated all the mandates of law.

8. The concerned workman has examined only one witness. He is himself Pramod Kumar Mishra.

9. The WW-1 Pramod Kumar Mishra has deposed that he was appointed on the post of Computer Operator on daily wages in Jaipur Branch UCO Bank on payment of Rs. 100/- per day as per verbal order of L.D.M. Banka on 27/01/2006 as the job was permanent and perennial in nature. He has also stated that he had requested the management to increase his daily wage from Rs. 100/- to Rs. 200/- as per work load and the Branch Manager had forwarded his letter to L.D.M. Banka on 17/05/2006 for seeking permission. He has also stated that he was paid his daily wages at the end of week by the Branch Manager through voucher and he had received his payment of wages for the entire period of tenure of his services from 27/01/2006 to 19/02/2011. He has further stated that the management had taken his service on different jobs as Accounts Clerk, Cashier etc and in this way he had rendered his service in the Bank for more than 240 days continuously for five years in the Bank. He has also stated that he was verbally terminated from the services from 19/02/2011 without giving any previous notice which is a mandatory requirement U/s 25 (F) r/e Section 2 (oo) of the I.D. Act. He has also stated that he had rendered his services in the Bank as Computer Operator in the category of permanent nature of job but the management in pursuance of its anti-labour practices continued his payment on daily wages. He has further stated that the management had adopted victimizing attitude against him from beginning as he was not paid wages as per respective work and his termination from service is totally illegal, unjustified, arbitrarily, unconstitutional ad violation of I.D. Act.

In the cross-examination he has deposed that at present he is working temporarily in Airtel Company. He has further stated that he was not appointed as per appointment letter. He has further stated that he was a regular daily wager and he was paid wages when he worked. He has also deposed that he could work as regular daily wager when he would be called. He has denied the suggestion that he is not entitled to be regularized.

10. The management has not examined any witness in support of its case.

11. The concerned workman has proved the following the documents in support of his case which is marked as:-

Exhibit W-1- Photo Copy of Letter of Branch Manager, Jaipur Branch to A.G.M. Baghalpur dated 27/01/2006.

Exhibit W-2- Photo Copy of Letter of Branch Manager, Jaipur Branch to L.D.M. Banka dated 17/05/2006.

Exhibit W-3- Photo Copy of Certificate issued by Branch Manager, Jaipur Branch to Sri Pramod Kumar Mishra dated 20/01/2010.

Exhibit W-4 Series - Photo copy of vouchers with double signature in backside of every vouchers from 27/01/2006 to 19/02/2011. (total 215 sheets).

12. The management has not proved any documents in support of its case.

13. The learned lawyer of concerned workman has submitted before the Tribunal that the concerned workman was appointed on the post of Computer Operator on daily wages on 27/01/2006 on payment of Rs. 100/- per day. He has argued that the workman namely Pramod Kumar Mishra was appointed as Computer Operator on daily wages for Jaipur Branch of UCO Bank on payment of Rs. 100/- per day on verbal order of L.D.M. Banka on 27/01/2006 as the post was permanent and perennial in nature. He has also argued that the passage of time the daily wages of the concerned workman was increased from Rs. 100/- to 200/- as per work load and he was getting his daily wages through vouchers by the end of the week. He has further submitted that the concerned workman had also discharged the service as Accounts Clerk, Cashier etc and in this way he had rendered his services to the Bank for more than 240 days continuously for five years in the said Bank but he was verbally terminated from the services on 19/02/2011 without giving any previous notice which is mandatory requirement u/s 25 (F) r/w section 2 (oo) of the I.D. Act. He has further submitted that concerned workman had discharged the duty of Computer Operator of permanent nature but because of Anti-Labour Practices of the management of Bank his payment was made as daily wages. He has also argued that the workman had discharged the work on regular basis for the period between 2006 to 2011 and the management of the UCO Bank had terminated his service without giving any notice u/s 25(F) of I.D. Act, so his termination is not legal and justified? He has made prayer for issuance of direction to reinstate the workman with a direction to make payment of all back wages.

14. On the other hand the learned lawyer of the management has submitted that the concerned workman namely Pramod Kumar Mishra was engaged time to time on outsource basis for helping in extra work of Branch and in this regard the Branch has made payment to him purely on daily basis work. He has also submitted that there is no employer-employee relationship between the concerned workman and the management of UCO Bank. He has further argued that Pramod Kumar Mishra had himself left the working from 09/02/2011 on his own accord as the Bank did not agree to pay as per his demand. He has further argued that the UCO Bank is a nationalized Bank and is a State within the meaning of Article 12 of the Constitution of India so it is obliged to function within the parameter of Article 14 & 16 of the Constitution of India in the matter of appointment. He has also submitted that in the Bank all the appointments are made against the sanctioned post after issuance of advertisement and after process of selection. He has further submitted that the Branch Manager has not been authorized to make any appointment to any post sanctioned in the Bank. He has further submitted that there is no vacancy of Computer Operator in Jaipur Branch and Sri Pramod Kumar Mishra has neither been engaged as regular employee nor on regular payments. He has also argued that the continuous work of 240 days in a calendar year is not a magic bond which converts illegal appointment into legal appointment, so the concerned workman is not entitled for regularization of his service. He has also argued that no appointment letter was issued to the concerned workman and he is not on muster roll on the Bank. He has lastly argued that the concerned workman had not been appointed as a Computer Operator by the management of UCO Bank and he had not discharged his work on regular basis in the Bank between 2006 to 2011. He has further submitted that the concerned workman is not entitled for any relief in this case.

15. Now, the only point of determination in this case is that whether the management of UCO Bank has obtained the services of concerned workman namely Pramod Kumar Mishra on regular basis for the period between 2006 to 2011 and if so, whether the action of the management of UCO Bank in terminating the services of Sri Pramod Kumar Mishra w.e.f. 19/02/2011 is legal and justified?

### **FINDINGS**

16. It is the pleading of the concerned workman that he had been appointed on the post of Computer Operator on daily wages for Jaipur Branch of UCO Bank on payment of Rs. 100/- as per a verbal order by the L.D.M. Banka on 27/12/2006 as the post was permanent and perennial in nature and the Branch Manager of UCO Bank Jaipur Branch had taken his service as Accounts clerk, Cashier etc, so in this way he had rendered his services to the Bank for more than 240 days continuously for five years in the said Bank but in spite of his continuous services he was verbally terminated from the services on 19/02/2011 without giving any previous notice which is a mandatory requirement u/s 25(F) r/w section 2 (oo) of the I.D. Act 1947 which is utter violation of the Act, so his termination is not justified.



17. On the other hand it is the case of the management that Pramod Kumar Mishra was engaged time to time on outsource basis for helping in extra work of Branch and in this regard Branch had made payment to him purely on daily basis, so there was no employer-employee relationship between the Jaipur Branch UCO Bank and the concerned workman. It is further pleading of the management that the concerned workman had not discharged his work on regular basis in Bank in between 2006 to 2011 and he had himself left the work from 09/02/2011

18. In the light of the pleading of both the parties and in the light of argument advanced by the learned Lawyer of both the parties the Tribunal thinks it proper to discuss the oral as well as documentary evidence of concerned workman and the management .

The WW.1, Pramod Kumar Mishra has deposed that he was appointed on the post of Computer Operator on daily wages in Jaipur Branch UCO Bank on payment of Rs. 100/- per day as per verbal order of L.D.M. Banka on 27/01/2006 as the job was permanent and perennial in nature. He has further stated that his request to increase his daily wage from Rs. 100/- to Rs. 200/-, the Branch Manager forwarded his letter to L.D.M. Banka for permission. He has also stated that he was paid his daily wages at the end of the week by the Branch Manager through vouchers and he had received payment for the entire period of tenure of his service from 27/01/2006 to 19/02/2011. He has stated that he had continuously been working for more than 240 days in five years in the bank but his service was verbally terminated from 19/02/2011 without giving any previous notice which is mandatory requirement u/s 25F r/e Section 2(oo) of the I.D. Act. In the cross-examination he has deposed that he was not appointed as per appointment letter but he was a regular daily wager and he was paid wages when he worked. He has also deposed that he was at present working temporarily in Airtel Company.

The management had not examined any of its witness in support of its case.

19. Now coming to the documentary evidence it appears that Exhibit W-1 is Photo Copy of Letter of Branch Manager mentioning therein that as per verbal instruction from L.D.M. Banka, Pramod Kumar Mishra has been engaged for operation of computer on daily basis at the rate of Rs. 100/- per month with effect from 27/01/2006. Further the Exhibit W-2 is photo copy of letter of Branch Manager on the request of concerned workman for permission to increase payment to Rs. 150/- per day. The Exhibit W-3 is photo copy of General Certificate issued by Manager A.K. Verma certifying therein that Pramod Kumar Mishra under takes the branch computerization work on daily basis. Further the Exhibit W-4 series are photo copy of payment vouchers of Pramod Kumar Mishra on different dates starting from the period from 27/01/2006 to 19/02/2011 (altogether 215 sheets).

After analyzing the different vouchers for the period 27/01/2006 to 04/11/2006 it appears that Pramod Kumar Mishra was paid wages weekly sometimes @ Rs. 100/- per day and later on @ Rs. 150/- or @ Rs. 175 per day. Similarly, the concerned workman was paid wages as daily wager as per the vouchers for the period 06/01/2007 to 29/12/2007 as per vouchers. Moreover the concerned workman had also been paid daily wages for the period 08/01/2008 to 27/12/2008 and concerned workman was paid as daily wages and computer charges. Further as per voucher for the period 03/01/2009 to 19/12/2009, daily wages were paid to Pramod Kumar Mishra and as per vouchers for the period 02/01/2010 to 19/02/2011 concerned wokman was also paid maintenance charges and daily wages.

20. Now after analyzing the oral and documentary evidence of the concerned workman it is quite apparent that Sri Pramod Kumar Mishra had been engaged at daily wages as Computer Operator from 27/01/2006 in the Jaipur Branch of UCO Bank.

21. Now in view of the above discussion the Tribunal comes to the conclusion that the concerned workman had worked in the Jaipur Branch of UCO Bank on daily wage basis as a Computer Operator since 27/01/2006 to 19/02/2011.

22. It is important to mention here that the workman has been defined u/s 2(s) of Industrial Dispute Act. The Section 2(s) of I.D. Act reads as follows:-

“workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i).....

(ii).....

(iii).....

(iv) who, being employed in a supervisory capacity, draws wages exceeding ( ten thousand rupees) per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

23. At this stage it is relevant to mention here that the Hon`ble Supreme Court in a case as reported in 2011 LAB. I. C. 2799 (S.C) has been pleased to observe as follows:-

“14. It is apposite to observe that the definition of workman also does not make any distinction between full-time and part-time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole-time job is a workman and the one employed on temporary, part-time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.

15. Whenever an employer challenges the maintainability ground that the employee is not a workman within the meaning of Section 2(s) of the Act, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the test of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of “workman”.

24. It is required to mentioned here that the concerned workman namely Pramod Kumar Mishra had worked in the Jaipur Branch of UCO Bank as computer operator on daily wages of payment of Rs. 100/- to Rs. 200/- since 27/01/2006, so he was employed in the Jaipur Branch of UCO Bank on hire and consequently he was a workman of the Jaipur Branch of UCO Bank and there was a relationship between him and the management as employer and employee, so there is an Industrial Dispute.

25. It is also relevant to mention here that the word retrenchment has been defined u/S 2(oo) of the I .D .Act, definition of continuous service has been mentioned u/s 25-B of I . D .Act and the condition precedent to retrenchment have been mentioned u/S 25 F of I.D Act.

**Section 2(oo) of the I.D.Act reads as follows:-**

**Section 2(oo)** -“retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

(a) Voluntary retirement of the workman; or

(b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) Termination of the service of the workman as a result of the non-renewal of contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c ) Termination of the service of a workman on the ground of continued ill-health.

The Section 25-F of the Industrial Dispute Act reads as follows:-

**25-F Conditions precedent to retrenchment of workmen-** No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) *The workman has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:*

(b) *The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay (for Every completed year of continuous service) or any part thereof in excess of six months; and*

(c) *Notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)*

At this stage it is required to mentioned here that the word continuous service has been defined under Section 25-B of the I.D. Act. The Section 25-B of I.D. Act reads as follows:-

**25-B. Definition of continuous service** – For the purpose of this Chapter,-

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) Where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-

(a) for a period one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than –

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

26. Now in this case there is categorical evidence that the concerned workman namely Pramod Kumar Mishra had worked in Jaipur Branch of UCO Bank for more than 240 days in twelve calendar months as per Exhibit W-4 Series, which are the documents of the management of Jaipur Branch of UCO Bank, so the concerned workman was in continuous service in the Jaipur Branch of UCO Bank as per definition mentioned u/s 25-B of I.D. Act. Moreover there is also evidence that the concerned workman was removed from his service w.e.f. 19/02/2011. Further there is no evidence before the Tribunal that the concerned workman had been given one month notice in writing indicating the reasons for his retrenchment/ removal or had been paid compensation equivalent to 15 days of average pay as per provision of 25-F of the I.D. Act.

27. Hence, in view of above the discussion the Tribunal finds and holds that the concerned workman namely Pramod Kumar Mishra had worked in Jaipur Branch of UCO Bank since 27/01/2006 as a Computer Operator on daily wages and not regular basis. Further the Tribunal finds and holds that the concerned workman had been removed from service w.e.f. 19/02/2011 without complying the provisions of section 25F of the I.D. Act.. Further the action of the management in terminating the service of the concerned w.e.f. 19/02/2011 is not legal and justified. Hence the concerned workman is entitled for relief.

28. At this stage it is relevant to mention here that the Hon`ble Supreme Court in catena of decision has been pleased to observe that the completion of 240 days work doesn't under the law import the right to regularisation and it merely imposed certain obligation on the employer at the time of termination of service.

The Hon`ble Supreme Court in a case of **Hindustan Aeronautics Ltd Vs. Dan Bahadur Singh, as reported in (2007) 6 SCC 207**, has been pleased to observe:-

*“14. The next question which requires consideration is whether completion of 240 days in a year confers any right on an employee or workman to claim regularisation in service. In Madhyamik Shiksha Parishad vs. Anil Kumar Mishra it was held that the completion of 240 days' work does not confer the right to regularisation under the Industrial Disputes Act. It merely imposes certain obligations on the employer at the time of termination of the services. In M.P. Housing Board vs. Manoj Shrivastava (para 17) after referring to several earlier decisions it has been reiterated that it is well settled that only because a person had been working for more than 240 days, he does not derive any legal right to be regularised in service. This view has been reiterated in Gangadhar Pillai vs. Siemens Ltd. The same question has been examined in considerable detail with reference to an employee working in a government company in Indian Drugs & Pharmaceuticals Ltd. vs. Workmen and paras 34 and 35 of the report are being reproduced below: (2007 (1) SCC p.408)*

*“34. Thus, it is well settled that there is no right vested in any daily wager to seek regularisation. Regularisation can only be done in accordance with the rules and not dehors the rules. In the case of E. Ramakrishnan v. State of Kerala this Court held that there can be no regularisation dehors the rules. The same view was taken in Kishore (Dr.) v. State of Maharashtra and Union of India v. Bishamber Dutt. The direction issued by the services Tribunal for regularising the services of persons who had not been appointed on regular basis in accordance with the rules was set aside although the petitioner had been working regularly for a long time.*

*35. In Surinder Singh Jamwal (Dr.) v. State of J&K it was held that ad hoc appointment does not give any right for regularization as regularization is governed by the statutory rules.”*

The Hon`ble Jharkhand High Court has been pleased to observe in **L.P.A No. 268/2012** which is as under:-

“(xiv) Be that as it may, even assuming without admitting that this appellant has worked more than 240 days in couple of years, then also, his services cannot be regularized. 240 days’ working is not a magic bond which converts illegal appointment into the legal appointment. In fact, 240 days working has nothing to do with the regularization at all. 240 days working has got reference under Section 25-B of the Industrial Disputes Act, 1947 for calculation of continuous years of service and nothing beyond that. Unnecessarily several times the Labour Court or the Industrial Courts are committing an error that if any worker has completed 240 days, their services should be regularized. In fact, there is no casual connection at all between the working of 240 days and right of regularization. Illegality in the appointment cannot be diluted by the working of 240 days. Illegality in the appointment continues, even if, the worker has worked for 240 days.”

The Hon’ble Jharkhand High Court has been further pleased to hold as follows:-

“Whenever any employment is given unauthorizedly, in the respondent-UCO Bank, Hirapur, Dhanbad, such type of employment cannot be converted into a regular employment unless there are rules for regularization or scheme for regularization. In the facts of the present case, there are no rules of regularization nor there is any scheme of regularization floated by the UCO Bank. In absence of such type of law, the charity shown by the Court will be cruelty to others. If such type regularization is allowed by the Courts, it will provide encouragement to those who are adorning high-ranking administrative position to give illegal appointment and later on, to get them regularized by the orders of the Courts. A thing which cannot be done directly, can never be done indirectly. If no employment can be given without there being any advertisement and without there being any recruitment process, the Court cannot be a party to illegal regularization of such employee.”

29. In view of such fact and in view of decision of Hon’ble Supreme Court and Hon’ble Jharkhand High Court it is settled that the workman is not entitled for regularization of his job for working 240 days in a calendar year in Jaipur Branch of UCO Bank.

30. It is relevant to mention here that the Hon’ble Supreme Court in a case of **BSNL Vs. Bhurumal as reported in (2014) 7 SCC 177**, the Hon’ble Supreme Court has been pleased to observe as under:-

34. *The Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.*

31. The Hon’ble Supreme Court in a case of **District Development Officer Vs. Satish Kantilal Amrelia** as reported in (2018) 12 SCC 29 B has been pleased to hold as follows:-

“16) *In view of forgoing discussion, we are of the considered view that it would be just, proper and reasonable to award lump sum monetary compensation to the respondent in full and final satisfaction of his claim of re-instatement and other consequential benefits by taking recourse to the powers under Section 11-A of the Act and the law laid down by this Court in Bharat Sanchar Nigam Limited case (supra).*”

32. The Hon’ble Supreme Court is an another case Deputy Executive Engineer Vs Kuberbhai Kanjhibhai as reported in 2019 (160) FLR 651 has reiterated the same principle.

33. Now, in this case the concerned workman had been engaged on daily wages in Jaipur Branch of UCO Bank for about five years and his service was terminated by the Jaipur Branch of UCO Bank in the year 2011 without complying the provisions of section 25F of the I.D. Act.. Moreover about eleven years have elapsed after termination of the concerned workman in the year 2011, so giving relief of reinstatement after long gap would not serve any purpose.

34. In view of such fact the Tribunal comes to the conclusion that it would be just, proper and reasonable to Award lump-sum monetary compensation to the concerned workman in full and final satisfaction of his claim of reinstatement and other benefits.

35. After considering of all the facts and circumstances of the case the Tribunal finds and holds that the management of UCO Bank had obtained the services of concerned workman on daily wages for the period between 27/01/2006 to 19/02/2011, so the action of the management in terminating the services w.e.f. 19/02/2011 is not legal and justified.

36. Hence, the concerned workman is entitled to following relief:-

The Jaipur Branch of UCO Bank is directed to pay a sum a sum of Rs. 2,00,000/- (Two Lakhs) to the concerned workman namely Pramod Kumar Mishra after proper verification as compensation within one month of the publication of the Award,

This is the Award of this Tribunal.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 349.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट संदर्भ सं. (33/2017) को प्रकाशित करती है ।

[सं. एल-37011/11/2017-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 349.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.33/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workmen.

[No. L-37011/11/2017– IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

**Present:** SUNIL KUMAR SINGH-I, Presiding Officer,  
CGIT cum Labour Court,  
Ahmedabad,  
Dated 5<sup>th</sup> January, 2023.

**Reference: (CGITA) No- 33/2017**

The Chairman,  
Kandla Port Trust,  
P.O. Box No.50,  
Gandhidham,  
Kutch-370201

....First Party

V/s

The General Secretary,  
Kandla Port Workers Union,  
Bunder Gate, New Kandla,  
Kutch-370210.

....Second Party

Adv. for the First Party : Shri K. V. Gadhia & Shri M. K. Patel  
Adv. for the Second Party : Shri P. S. Parmar

#### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/11/2017-IR(B-II) dated 02.05.2017 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

**“Whether the action of the chairman, Kandla Port Trust, Gandhidham by not granting 3<sup>rd</sup> financial up-gradation under MACP Scheme to Shri Hariprasad R, Ex-Driver 1<sup>st</sup> Class after completing 30 years service in Group “C” Cadre is legal and justified? If not, what relief the workmen concerned is entitled to ?”**

1. Today, the matter was called out. First Party employer represented through Ld. Counsels Shri K. V. Gadhia and Shri M. K. Patel. Second Party/Workmen is represented through Ld. Counsel Shri P. J. Parmar. Ld. Counsel for the workman has informed that he does not intend to file any statement of claim on behalf of the workman & the reference be decided accordingly. The reference dates back to 02.05.2017. Neither any statement of claim filed nor any evidence on record on behalf of the workman in respect of his claim under reference. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of any statement of claim and evidence with the observation that “the action of chairman, Kandla Port Trust, Gandhidham by not granting 3<sup>rd</sup> financial up-gradation under MACP Scheme to Shri Hariprasad R., Ex-Driver 1<sup>st</sup> Class after completing 30 years service in Group “C” Cadre is legal and justified. The workman is not entitled for any relief.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 350.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट संदर्भ सं. (116/2010) को प्रकाशित करती है।

[सं. एल-37011/10/2008-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 350.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 116/2010) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workmen.

[No. L-37011/10/2008—IR(B-II)]

SALONI, Dy. Director

### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT,  
AHMEDABAD**

**Present: -** SUNIL KUMAR SINGH-I, Presiding Officer,  
CGIT cum Labour Court,  
Ahmedabad,  
Dated 14<sup>th</sup> January, 2023

**Reference (CGITA) No. 116/2010**

The Chairman,  
Kandla Port Trust,  
P.O. Box No. 50, Gandhidham,  
Kutch

...First Party / Employer

V

The General Secretary,  
Transport & Dock Workers Union, Kandla,  
21, Yogesh Building, Plot No. 586, 12-C, Gandhidham,  
Kutch - 370201

(For the applicant Shri Ramesh R. Parmar) ... Second Party / Union / Applicant  
Advocate for the First Party/Employer: Shri K.V. Gadhia & Shri M.K. Patel  
Advocate of the Second Party / Applicant: Shri N. H. Rathod

**AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/10/2008-IR(B-II) dated 05.02.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad in respect of the matter specified in the Schedule. Later, the dispute was transferred to Central Government Industrial Tribunal cum Labour Court, Ahmedabad.

**SCHEDULE**

**“Whether the action of the Chairman, Kandla Port Trust, P.O. Box No. 50, Gandhidham, Kutch in not providing employment on compassionate ground to Shri Ramesh R. Parmar, s/o late Shri Ram ji Gella is legal and justified? What relief the workman concerned is entitled to?”**

1. The facts in nutshell are that late Shri Ram ji Gella, father of second party / applicant Shri Ramesh R. Parmar was working as a permanent Khalasi in the Kandla Port Trust, Gandhidham (Kutch). He died in harness on 27.02.1997 while in service. It appears that the second party / applicant, son of the deceased, applied on 06.01.2003 for getting an appointment on compassionate ground against the vacant post resulted due to death of his father. It was the say of the applicant that the case was forwarded with his application form to Senior Labour Officer, who had later forwarded the application form to Deputy Secretary (P) on 30.05.2005. The second party / applicant was conveyed the departmental committee's decision dated 11.07.2006 in respect of the rejection of his application for compassionate appointment on the ground of late submission on 08.10.2006 by Dy. Secretary (P), Kandla Port Trust.

2. The first party / employer has submitted written statement at Ex. 7 and denied the pleadings of the applicant. The first party / employer has further stated that the application for appointment on compassionate ground was submitted after 5 years and 11 months. Hence the committee constituted for the purpose, rejected the same on account of late submission. It is further submitted that as per the policy of compassionate appointment framed by the Department of Personnel & Training, Government of India's office Memo No. 14014/6/94-ESTT. (D) dated 09.10.1998, the object of the scheme was to give immediate assistance to the family of the deceased employee who was indigent and to relieve the family from financial destitution. The first party / employer further stated that the second party / applicant is not covered under the definition of the 'workman', hence, no 'Industrial Dispute' exists between the parties and the Tribunal lacks jurisdiction.

3. The second party / applicant has filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of Document	Serialam of Document	Type of Remarks
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1	Ration Card of Shri Ramesh R. Parmar	Illegible	M 10/1	True Copy
2	Communication letter issued by Kandla Port Trust to Shri Ramesh R. Parmar	08.10..2006	M 10/2	True Copy
3	Documents issued on behalf of Kandla Port Trust to Shri Ramesh R. Parmar under RTI Act, 2005	16.01.2008	M 10/3	Xerox

4. The second party / applicant has himself presented for oral examination at affidavit Ex. 9 filed in his examination-in-chief.

5. The first party / employer has filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of Document	Serial of Document	Type / Remarks
1	Scheme for compassionate appointment in Kandla Port Trust	Illegible	M 11/1	Xerox

6. The first party / employer has not produced any oral evidence.

7. Perused the records and heard Shri K. V Gadhia and Shri M. K. Patel, advocates for the first party / employer Kandla Port Trust and Shri N. H. Rathod, advocate for the second party / applicant.

8. The main point for consideration under reference is as under:

“Whether the applicant Shri Ramesh R. Parmar has right to be appointed on compassionate ground against the said vacant post resulted due to death of his father Shri Ram ji Gella despite delayed submission of application by 5 years & 11 months?”

9. It is pertinent to mention that during the course of arguments, Ld. Counsel for the first party / employer has agreed that the applicant has applied in the capacity of son of the deceased employee on the basis of existing scheme of compassionate appointment in Kandla Port Trust, hence, he does not press upon his pleadings to the extent of Tribunal lacking jurisdiction. Therefore, the dispute, being an industrial dispute, is well within the jurisdictional domain of the Tribunal.

10. Ld. Counsel for the applicant has argued that according to the departmental scheme, no limitation is provided for the submission of application for appointment on compassionate ground, hence, the applicant could not have been denied compassionate appointment by the employer against the vacancy caused due to death of his father and has cited Mohan Mahto V Central Coalfields Ltd. and ors., 2003 (4) JCR 612 (Jhr) - According to the facts of this case, on the death of the deceased employee on 23.02.1997, the male dependent was 15 years and above in age. An application was filed by him on 25.10.1997. He was asked to wait till he attains 18 years of age. After attaining 18 years of age, the applicant / male dependent applied again for compassionate appointment on 26.09.1999 which was rejected on the ground of non availability of his name in the live roster and also on the ground of late submission. Hon'ble Jharkhand High Court directed respondent / department to appoint him under Clause 9.3.2 of National Coal Wage Agreement VI and held that such rejection order on the ground of delay was arbitrary. Applicant's Ld. Counsel has cited Gujarat Maritime Board V Kanji Natha Karmata, 2004 (101) FLR 1226 (Guj) (DB) – According to the facts of this case, the employee died on 31.10.1970, when the petitioner was 2 years old. Mother of the petitioner applied in 1988 to the post Officer Gujarat Maritime Board, Veraval, thereafter, she applied again in April 1989. The request was not accepted on the ground of having applied after prescribed time-limit. Hon'ble Gujarat High Court held that the application moved immediately after attaining the age of 18 years and followed by 2 other communications of April 1989 and March 1991 was found not belated. Ld. Counsel for the applicant has further cited Rajesh Nath V The State of Assam and 8 ors., WP (C)/3290/2020, Order dated 18.11.2022 - According to the facts of this case, the father of the petitioner was working as Armed Branch (AB), Constable under the Superintendent of Police, Cachar, died in harness on 27.07.2009 in a motor cycle accident while he was on official duty. At the time of his death, the petitioner was aged about 16 years and upon attaining majority, he submitted an application for compassionate appointment on 28.10.2011. The said application was rejected by the department concerned. Hon'ble Guwahati High Court observed that the applications were moved immediately after attaining the age of majority, hence there was no delay. The matter was remanded for fresh consideration on the claim of applicant for fresh compassionate appointment.

11. Ld. Counsel for the first party / employer has argued that the compassionate appointment is not a right vested in the applicant. The applicant submitted application after a long delay of about 6 years. The family of



the deceased cannot be said to be living in immediate hardship and distress and has cited M. Raju V Union of India and ors., 2009 II CLR 742 (Mad). Hon'ble Madras High Court has held that compassionate appointment is not automatic right vested in a person seeking compassionate appointment after delay of 8 years as the very object to tide over economic crisis due to sudden death of bread earner of the family is lost. Employer's Ld. Counsel has further cited Darmendrasinh Vanrajsinh Jadeja V State of Gujarat and ors., 2009 II CLR 590 (Guj) (DB). Division Bench of Hon'ble Gujarat High Court declined the claim of a minor son claiming appointment on attaining majority i.e. 12 years after the death of his father as object of such appointment which is to relive unexpected immediate hardship and distress caused to the family by sudden demise of earning member of the family, would not survive after long lapse of time.

12. This aspect of delay has been dealt with by Hon'ble Supreme Court in many decisions including State of J & K V Sajad Ahmed Mir., (2006) 5 SCC 766 Para 11, Local Administration Department V M. Selvanayagam, (2011) 13 SCC and The State of Himachal Pradesh & anr. V Shashi Kumar, Civil Appeal No. 988/2019 (Date of Judgement 16.01.2019).

13. In State of J & K V Sajad Ahmed Mir., (2006) 5 SCC 766 Para 11, Hon'ble Supreme Court held that in a case where the father of the applicant who was in service, died in harness in March 1987 and for the first time, the application was made by the applicant after more than 4 years i.e. in September 1991. The family thus survived for more than 4 years after the death of the applicant's father. Hon'ble Supreme Court set aside the order of Division Bench of Hon'ble High Court and restored the order of Hon'ble single judge and observed that more than 15 years had passed from the date of death of applicant's father when the Division Bench decided the matter. The said fact was indeed a relevant and material fact which went to show that the family survived inspite of the death of the employee.

14. In Local Administration Department V M. Selvanayagam, (2011) 13 SCC, Hon'ble Supreme Court has held that ideally, the appointment on compassionate basis should be made without any loss of time. Normally the claim for appointment may come after several months or even after 2 or 3 years.

15. In The State of Himachal Pradesh & anr. V Shashi Kumar, Civil Appeal No. 988/2019 (Date of Judgement 16.01.2019), Hon'ble Supreme Court has held that the compassionate appointment is an exception to the general rule that appointment to any public post in the service of the state has to be made on the basis of principles which accord with Article 14 & 16 of Constitution of India. Hon'ble Supreme Court observed in respect of delay as under: "We are not impressed with the submission that delay should not be taken into account."

16. The relevant Para 9 of the scheme formulated by the employer 'Kandla Port Trust' reads as under:

**"....9. BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT:**

- (a) Port can consider requests for compassionate appointments even where the death or retirement on medical grounds of a Port Employees took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Port Employee in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Chairman, Kandla Port Trust.
- (b) Whether a request for compassionate appointment is belated or nor may be decided by the Committee with reference to the date of death or retirement on medical ground of a Port employee and not the age of the applicant at the time of consideration.
- (c) The onus of examining the penurious condition of the department family will finally rest with the authority i.e. Chairman, Kandla Port Trust, making compassionate appointment....."

17. In order to depict the entire fact scenario, additional factual matrix deserves to be mentioned herein. According to the photocopy of an affidavit dated 02.02.2005 sworn and submitted by the applicant Shri Ramesh Ramji Bhai Parmar to employer, it transpires that his father first married with Smt. Gangaben R. and after 10-12 years, he married to applicant's mother Smt. Savitaben with intention to have children. The applicant and his

two younger brothers were born to the second wife of deceased employee. Applicant's father / deceased employee did not nominate legal heirs in the record. First legally wedded wife Smt. Gangaben R. Parmar died on 18.03.2004 who was recipient of deceased's pension. After her death, applicant is in receipt of pension of his deceased father. After the death of deceased employee Shri Ram ji Gella on 27.02.1997, his first legally wedded wife Smt. Gangaben never applied for compassionate appointment. The applicant moved application for the very first time for compassionate appointment in the year 2003. The applicant in his cross-examination at Ex. 9 has stated that he was 17 years old at the time of his father's death i.e. on 27.02.1997. The applicant did not make any effort to move any application for compassionate appointment even after attaining his majority i.e. in the year 1998 rather he moved an application in the year 2003 only.

18. The scheme authorising the employer to consider request for compassionate appointment on delayed application has a rider in its Para 9 (a) itself. The applicant did not move any application on attaining majority in the year 1998 till the year 2003. The applicant was conveyed the decision of rejection of his application for compassionate appointment on 08.10.2006. However he got the dispute referred in the year 2009. It shows that the family of deceased was able to manage all these years and had some dependable means of subsistence. There was no prompt effort on the part of applicant to seek compassionate appointment. Hon'ble Supreme Court in *M. Selvanayagam* (supra) has categorically observed that the period from the death may also be taken into consideration by the Court at the time of passing judgement. In the present matter, more than 25 years have elapsed from the death of deceased employee Shri Ram ji Gella who died on 27.02.1997. Hence, the very object to tide over economic crisis due to sudden death of the deceased in the present case is lost as the compassionate appointment is not the vested right and would not survive after long lapse of time. The facts of the case law cited by Id. Counsel for the second party / applicant are different and easily distinguishable.

19. In view of aforesaid discussion and observation made by Hon'ble Supreme Court, it may not be just and proper to provide compassionate appointment to the applicant after 25 years from the death of his father. The point for consideration under reference is decided accordingly against the applicant; hence he is not entitled to the claimed relief.

20. The reference is answered as under: "the action of the Chairman, Kandla Port Trust, P.O. Box No. 50, Gandhidham, Kutch in not providing employment on compassionate ground to Shri Ramesh R. Parmar, s/o late Shri Ram ji Gella is legal and justified."

Let two copies of the Award be sent to the appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 351.**—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा प्रबंध तंत्र के सबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट संदर्भ संख्या (1137/2004) को प्रकाशित करती है 1

[सं. एल-12012/191/95-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 351.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.1137/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-12012/191/95– IR(B-II)]

SALONI, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT,  
AHMEDABAD**

**Present -** SUNIL KUMAR SINGH-I, Presiding Officer,  
CGIT cum Labour Court,  
Ahmedabad,  
Dated 18<sup>th</sup> January, 2023

**Reference (CGITA) No. 1137/2004**

The Regional Manager,  
Bank of Baroda,  
Dhebar Road, Rajkot – 1

... First Party / Employer

V

The President,  
Saurashtra Employees Union,  
Umesh Commercial Complex, Room No. 213 & 214, Second Floor,  
Near Chaudhary High School, Rajkot - 1  
(For the workman Shri S. G. Mehta)

... Second Party / Union / Workman

Advocate for the First Party / Employer : Shri V. K. Mashar  
Advocate for the Second Party / Workman : Shri Prabhatsinh Parmar

**AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/191/95-IR(B-II) dated 29.07.1998 referred the dispute for adjudication to the Industrial Tribunal, Rajkot in respect of the matter specified in the Schedule. The dispute was received in Central Government Industrial Tribunal cum Labour Court, Ahmedabad on its creation at Ahmedabad.

**SCHEDULE**

**“Whether the action of the management of Bank of Baroda in terminating the services of Sh. S. G. Mehta w.e.f. 28.2.94 is legal and justified? If not, to what relief the said workman is entitled?”**

1. It is pertinent to mention that initially, after considering the said dispute, the Central Government, Ministry of Labour & Employment, New Delhi, declined adjudication vide letter of even number dated 24.05.1995. However, in compliance of order dated 11.02.1998 passed by Hon`ble High Court of Gujarat at Ahmedabad in Writ Petition No. 1823/1997, the Central Government, vide order dated 29.07.1998, referred the present dispute to the Industrial Tribunal, Rajkot for adjudication and was received in this Tribunal after its creation in the year 2004.

2. The second party / workman submitted his statement of claim at Ex. 6, stating therein that he was initially working as Peon with the first party / employer w.e.f. 21.03.1988 and was orally terminated w.e.f. 22.04.1991. He has further stated that he was re-employed by the first party / employer w.e.f. 15.09.1993 during the pendency of conciliation proceedings before ALC(C), Adipur and was again orally terminated w.e.f.

28.02.1994. He has further stated that some juniors named Dineshbhai Karsanbhai, Abdulbhai Navinbhai, Jagjivan Khawar and Rajubhai, were not only retained but were made permanent as Peon. He has further stated that after his reemployment on 15.09.1993, four persons named Jagdish M. Makwana, Ranchhodbhai Makwana, Kothabhai G. Boricha and Ramesh N. Varia were retained in service by the first party / employer. He has prayed to set aside the termination order dated 28.02.1994 and to reinstate him with back wages and continuity of service with all consequential benefits on the ground that his termination is in violation of Sections 25-F, 25-G and 25-H of Industrial Disputes Act, 1947.

3. The first party / employer submitted written statement at Ex. 6/1 and denied the pleadings of the second party / workman. The first party / employer has stated that the workman was engaged purely on temporary and casual basis as Peon against a leave vacancy during the period from 21.03.1988 to 22.04.1991. The Bank issued an advertisement dated 13.08.1991 and invited certain category of people to apply for regularisation. The workman also applied for the same and was not considered for regularisation because of non-fulfilling of the criteria prescribed in the advertisement. In the mean while, he was again engaged purely on temporary and casual basis against leave vacancy of Peons between 15.09.1993 to 03.02.1994. The workman has not completed 240 days in any calendar year, therefore, he is not entitled for the claimed relief.

4. The second party / workman has filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of Document	Serial no. of Document	Type / Remarks
1	Certificate of Shri Satish G. Mehta issued by Bank regarding total 112 days (55+35+22=112 days) of his work on daily wages as full time sub-staff during the year 1988, 1989 and 1990 respectively	31.08.1991	Not mentioned	Xerox
2	Registered receipts having printed no. 1522, 1523 and 1524	18.07.1991	Not mentioned	Xerox
3	Demand notice for reinstatement with back wages of Shri Satish G. Mehta addressed to the employer / Bank	17.07.1991	Not mentioned	Xerox
4	Cash vouchers in favour of Shri Satish G. Mehta for his three days work done on 06.03.1993, 08.02.1993 & 05.02.1993	21.04.1993, 27.02.1993 & 05.02.1993	Not mentioned	Xerox
5	Cash vouchers in favour of Shri Satish G. Mehta for his four days work on 12.02.1993, 16.02.1993 & joint voucher of 17.02.1993 & 24.02.1993	12.02.1993, 17.02.1993 & 24.02.1993	Not mentioned	Xerox
6	Cash vouchers in favour of Shri Satish G. Mehta for his two days work & charges on 04.03.1993, 05.03.1993 and charges voucher dated 10.03.1993	04.03.1993, 05.03.1993 & 10.03.1993	Not mentioned	Xerox
7	Cash vouchers in favour of Shri Satish G. Mehta for his two days work on 01.04.1993 & 06.04.1993 and charges voucher dated 27.04.1993	03.04.1993, 07.04.1993 & 27.04.1993	Not mentioned	Xerox
8	Cash vouchers in favour of Shri Satish G. Mehta for his three days work vide voucher dated 29.04.1993 and joint voucher dated 10.08.1993	29.04.1993 & 10.08.1993	Not mentioned	Xerox
9	Letter written by Bank to Shri Satish G. Mehta	Illegible	Not mentioned	Xerox
10	Letter no. NGZ:RR:PD:8/2129, from the Regional Manager, Bank of Baroda, Baroda addressed to the Asstt. Labour Commissioner (Central), Adipur	14.10.1993	Ex. 97/1	Xerox
11	Confidential letter no. NGZ:RR:PD:09/1631, from the Regional Manager, Bank of Baroda, Baroda addressed to the Asstt. Labour Commissioner (Central), Adipur	11.11.1994	Ex. 97/2	Original
12	Notice from Shri B. B. Gogia, advocate for the workman Shri Satish G. Mehta addressed to the Regional Manager & the Branch Manager, Bank of Baroda, Rajkot along with three postal receipts and one acknowledgement	17.03.1994 & 19.03.1994	Ex. 97/3, Ex. 97/4 to Ex. 97/6 & Ex. 97/7	Original
13	School Leaving Certificate of Shri Satish G. Mehta	28.09.2002	Ex. 97/8	Xerox
14	S.S.C. Marksheet of Shri Satish G. Mehta	Illegible	Ex. 97/9	Xerox

15	Conciliation Officer's report	02.05.1995	Ex. 97/10	Original
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5. The second party / workman has deposed himself at Ex. 17 in his oral evidence.

6. The first party / employer has filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of Document	Serial of Document	Type / Remarks
1	Cash vouchers in favour of Shri S. G. Mehta from 24.03.1988 to 24.04.1991	24.03.1988 to 22.04.1991	Ex. 11 to Ex. 67	Original
2	Cash voucher in favour of Shri S. G. Mehta from 24.09.1993 to 26.02.1994	22.09.1993 to 26.02.1994	Ex. 68 to Ex. 89	Original
3	Statement showing payment of daily wages paid to Shri Satish G. Mehta from 24.03.1988 to 22.04.1991	Undated	Ex. 90/1 & Ex. 90/2	Original
4	Statement showing payment of daily wages paid to Shri Satish G. Mehta from 22.09.1993 to 26.02.1994	Undated	Ex. 91	Original
5	Break-up statement showing month-wise number of working days of Shri Satish G. Mehta from the month of March 1988 to the month of April 1991	Undated	Ex. 92	Original
6	Relevant rules for the recruitment of Sub-ordinate Staff in Bank through list	Illegible	Ex. 93	Xerox

7. The first party / employer / Bank has examined Shri Sultanbhai, Branch Manager of Raiya Road Branch of Bank of Baroda in oral evidence.

8. I have perused the records and heard Ld. Counsel for first party Shri V. K. Mashar in addition to his written argument dated 04.04.006 and Ld. Counsel for second party / workman Shri Prabhatsinh Parmar in addition to his written arguments at Ex. 99 and 100.

9. The main point for the consideration under reference is as to whether the relationship of employer and employee exists between the parties? If yes, whether the workman has worked for 240 days during the calendar year preceding the said termination order dated 28.02.1994 and whether the employer, at the time of said termination, engaged juniors by not giving preference to the second party / workman?

10. The facts mentioned by the workman in his statement of claim Ex. 6 shows that he worked as a Peon earlier in the Bank from 21.03.1988 to 22.04.1991 and after his first termination on 22.04.1991, he was again taken back on the said job w.e.f. 15.09.1993 till his second termination on 28.02.1994, which is under challenge in this reference. The employer / Bank, though, in his written statement Ex. 6/1 stated the service period from 15.09.1993 till 03.02.1994, however employer's witness Shri Sultanbhai, Branch Manager at Ex. 9, has stated in his cross-examination that the workman retired as daily wage on 28.02.1994, hence it is established that the workman worked with the employer / Bank again from 15.09.1993 till 28.02.1994 i.e. the day of his termination. Employer / Bank of Baroda is a banking company under industrial occupation, hence, is included in the term Industry as defined u/s 2 (j) of Industrial Disputes Act, 1947. As he falls under the definition of workman under Section 2 (s), hence the present reference is an 'Industrial dispute' as defined under Section 2 (k) of the Industrial Disputes Act, 1947. It is accordingly held that the relationship of employer and employee exists between the parties.

11. It is not under dispute that before the re-employment of the workman Shri S. G. Mehta on 15.09.1993, he had already raised an Industrial Dispute against his earlier termination before the Labour Commissioner (C), Rajkot which was transferred to Additional Labour Commissioner (C), Adipur for conciliation. During those conciliation proceedings, the employer / Bank issued an advertisement for regularisation for certain category of people to apply for regularisation.

12. The workman Shri Satish G. Mehta in his cross-examination at Ex. 17 stated that he has not been recruited as per Bank's recruitment rules. He has further stated in his cross-examination that the Bank had published notice for recruitment when his case was under process before the Conciliation Officer. This was of-course in respect of his earlier termination order dated 22.04.1991.

13. The employer / Bank has filed the rules related to recruitment of sub-ordinate staff through list Ex. 93. The relevant Para 25.7 with respect to educational criteria for Peons reads as under:

“EDUCATIONAL CRITERIA:

PEONS;

25.7 The candidates should have passed seventh standard but should not have passed IX th Standard.”

14. It has been argued on behalf of the workman that the workman having passed 9<sup>th</sup> standard could not be rejected merely on the basis of Bank's rules providing requisite qualification for the post of Peon as 7<sup>th</sup> standard pass. Ld. Counsel for the second party / workman has cited following case law. 1. Munna Roy V Union of India, 2000 Law Suit (SC) 651. In this case, the candidate possessed a qualification (graduate) higher than required qualification (matriculate) and the advertisement itself had prescribed the same, Hon'ble Supreme Court held that how can the authority come to a conclusion that the selection has been made by adopting a dubious method and confirmed the order passed by CAT, which allowed the application of the petitioner. 2. H. S. Rajshekhar V State Bank of Mysore, SLP No. 10845 of 2009, Date of SC Judgement 24.11.2011. In this case, the petitioner had worked for 292 days in the relevant calendar year coupled with the fact that one Shri Devaraju was absorbed as a permanent employee even though he had qualified the SSLC examination. Hon'ble Apex Court did not find the petitioner disqualified on having passed SSLC examination. 3. Executive Engineer V Harisingh Modhbhai Gadhvi, 2007 (3) GLH 220 (Guj). In this case, the employer did not produce documents like muster roll, wage slip, seniority list etc. which was in the custody of the employer. The witness produced by the workman on affidavit was also unchallenged and uncontroverted in cross-examination by the petitioner. Hence adverse inference against the employer was drawn for withholding the best documentary evidence and the finding of the Labour Court in respect of violation of Section 25 (F) and 25 (G) of Industrial Disputes Act, 1947 was confirmed. 4. Harjinder Singh V Punjab State Warehousing Corporation, 2010 Law Suit (SC) 190. In this case, Section 25 (F) was complied by the employer before retrenchment but the principle of 'last come first go' was not complied, hence violation of Section 25 (G) of Industrial Disputes Act, 1947 was found. 5. Jasmersingh V State of Haryana and anr., SLP (C) No. 1532 of 2014, SC's Date of Judgement 13.01.2015. In this case, the workman had completed more than 240 days of continuous service in one calendar year, hence the termination of the workman was found to be in violation of Section 25-F, 25-G and 25-H of Industrial Disputes Act, 1947 as the principle of 'last come first go' was also not followed. 6. Maruti Udyog Ltd. V State of Haryana and 2 ors., (1994) III LLJ 518 (P&H). In this case, the decision of the Tribunal declining to treat issue no. 2 as preliminary issue with respect to exact date of termination was found to be without any error of jurisdiction.

15. In the present case, the second party / workman Shri Satish G. Mehta in his cross-examination at Ex. 17, has clearly stated that after his re-employment on 15.09.1993, he worked for 4 months only. Employer / Bank's witness Shri Sultanbhai, Branch Manager in his cross-examination at Ex. 9 has stated that the workman was re-inducted on 15.09.1993 and was relieved on 28.02.1994. According to Bank's voucher Ex. 68 to Ex. 89 read with consolidated list Ex. 91, workman seems to have worked only for 132 days in one calendar year preceding his date of termination on 28.02.1994.

16. Hon'ble 3 judges bench of Apex Court in Para 7.3 of its judgement delivered on 03.11.2020 in Chief Manager, Punjab National Bank V Anitkumar Das, Civil Appeal No. 3602 of 2020 (SLP (C) No. 8343 of 2020), has held as under:

“7.3 Thus as held by this Court in the aforesaid decision, it is for the employer to determine and decide the relevancy and suitability of the qualifications for any post and it is not for the Courts to consider and assess. A greater latitude is permitted by the Courts for the employer to prescribe qualifications for any post. There is a rationale behind it. Qualifications are prescribed keeping in view the need and interest of an Institution or an Industry or an establishment as the case may be. The Courts are not fit instruments to assess expediency or advisability or utility of such prescription of qualification. However, at the same time, the employer cannot act arbitrarily or fancifully in prescribing qualification for posts. In the present case, prescribing the eligibility criteria / educational qualification that a graduate candidate shall not be eligible and the candidate must have passed 12<sup>th</sup> standard is justified and as observed hereinabove, it is a conscious decision taken by the Bank which is in force since 2008. Therefore, the High Court has clearly erred in directing the appellant Bank to allow the respondent original writ petitioner to discharge his duties as a Peon, though he as such was not eligible as per the eligibility criteria / educational qualification mentioned in the advertisement.”

17. In this aspect of the matter, the Para 4 of the original letter dated 11.11.1994 (Ex. 97/2) written by Regional Manager of employer / Bank to Additional Central Commissioner (C), Adipur (Kutch), whose authenticity is not denied by the workman, is worth mentioning which reads as under:

“4. On scrutiny of application of Mr. Mehta received in response to Bank's advertisement, it was observed that he was not full filling the criteria laid down for the recruitment of a candidate in sub-ordinate cadre of the Bank as he was over qualified for the purposes and he has mislead the Bank by giving wrong details about his qualifications at the time of first engagement.”

It is further mentioned in the aforesaid letter that he was not empanelled for future employment in the Bank's service.

18. The Bank's vouchers Ex. 11 to 67 r/w consolidated statement Ex. 90 r/w Ex. 92 shows the description of the working days of workman from 21.03.1988 to 22.04.1991 as 133 days which gives no benefits to the applicant / workman with regards to present reference. In the facts of present case, it is abundantly clear on the basis of evidence of record that the workman, prior to his re-employment on 15.09.1993, applied for the post of Peon on the basis of advertisement published by the Bank. However, he was not found suitable within the criteria prescribed by the Bank. According to Para 25.7 of Bank's rules, as the applicant is 9<sup>th</sup> standard pass, hence he was rightly not found suitable by Bank as upper limit of the qualification was fixed as 07<sup>th</sup> standard. The workman did not work for 240 days in the current year immediately preceding the termination order dated 28.02.1994. In view of binding and authoritative precedent propounded by 3 judges bench of Hon'ble Supreme Court in Anilkumar Das (supra), the facts of the afore cited case law on behalf of the workman are squarely different and easily distinguishable.

19. As far as the names of juniors, mentioned in the statement of claim Ex. 6 are concerned, the employer / Bank in written statement at Ex. 6/1 clearly explained that those persons also applied for their regularisation in response to the employer's advertisement and they were fulfilling the required criteria, hence they were considered by the Bank management for the purpose of their regularisation. The workman in his statement on oath at Ex. 17 has admitted that he has not been recruited as per Bank's rules and has further confirmed that the persons, who were possessing qualification as per advertisement were only regularised. He has also admitted that he is 9<sup>th</sup> standard pass. This fact is also substantiated by the photocopy of mark sheet of the workman issued by Gujarat Secondary Education Board, Gandhinagar, wherein he is shown to have failed in SSC (10<sup>th</sup>) examination 1985.

20. In view of aforesaid discussion and evidence on record, it is abundantly clear that the juniors, named by the workman seem to have been appointed against the regular post in response to the advertisement issued by the Bank. In Ram Gopal Saini V The Judge, Labour Court No. 2, Jaipur and ors., 2001 LLR 747 (Raj.), Hon'ble Rajasthan High Court has held that the workman cannot succeed merely by mentioning the names of junior persons. He has to prove that he worked for 240 days in the calendar year preceding the said termination order and the employer has violated Sections 25-H and 25-G of the Industrial Disputes Act. Mere mentioning the names of juniors is not sufficient. This fact is essentially to be proved by the evidence. The present workman has not worked for 240 days in the calendar year preceding his termination order dated 28.02.1994. The onus to prove the fact that the named juniors were daily wagers and were regularised as such, without going through the regular recruitment process under advertisement is on the workman. The workman / employee has failed to prove aforesaid facts. Hence, the action of the management of Bank of Baroda in terminating the services of Sh. Satish G. Mehta w.e.f. 28.02.1994 is legal and justified. The second party / workman is not entitled to any relief.

21. The reference is accordingly answered in affirmative in favour of the employer and against the workman.

Let two copies of the Award be sent to the appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 352.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दीनदयाल पोर्ट ट्रस्ट प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट संदर्भ सं. 180/2018) को प्रकाशित करती है ।

[सं. एल-37011/07/2018-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 352.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 180/2018) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Deendayal Port Trust and their workmen.

[No. L-37011/07/2018— IR(B-II)]

SALONI, Dy. Director

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT, AHMEDABAD

**Present:** Sunil Kumar Singh-I, Presiding Officer,  
CGIT cum Labour Court,  
Ahmedabad,  
Dated 7<sup>th</sup> November, 2022.

**Reference: (CGITA) No- 180/2018**

1. The Chairman,  
Deendayal Port Trust,  
P.O. Box No.50,  
Gandhidham,  
Kutch(Gujarat)-370201

...First Party

V

The General Secretary,  
Transport & Dock Workers Union,  
21, Yogesh Building, Plot No. 586,  
Gandhidham,  
Kutch(Gujarat)-370201

...Second Party

Advocate For the First Party : Shri K. V. Gadhia & Shri M. K. Patel  
Advocate For the Second Party :Shri N. H. Rathod

### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/07/2018-IR(B-II) dated 26.11.2018 referred

the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

**“Whether the action of management in re-fixation of pay of Sh Sukhdev G. Gadhvi, JE, GR-I with retrospective effect is legal & proper? And If Not, what relief the workman is entitled to and to what extent?”**



1. The matter was taken up today. Second Party workman Sh Sukhdev G. Gadhvi is represented through Ld. Counsel Shri N. H. Rathod and First Party employer is represented through Ld. Counsel Shri M. K. Patel and Shri K. V. Gadhia. Both the parties have drawn the attention of the Tribunal towards joint application (Ex. 7) dated 01.11.2022 filed by both the parties jointly for withdrawal of the reference along with workman's application M-7/1 dated 16.09.2022, wherein it is prayed that the workman does not want to pursue the matter further, hence the reference be withdrawn.

2. As the workman does not intend to pursue the matter further, the reference stands withdrawn as prayed.

3. Thus the reference is finally disposed of as withdrawn.

4. Let two copies of Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 353.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट संदर्भ संख्या (19/2017) को प्रकाशित करती है ।

[सं. एल -12012/04/2017-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 353.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.19/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-12012/04/2017- IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, AHMEDABAD

**Present -** SUNIL KUMAR SINGH-I, Presiding Officer,  
CGIT cum Labour Court,  
Ahmedabad,  
Dated 17<sup>th</sup> January, 2023

**Reference (CGITA) No. 19/2017**

The Assistant General Manager (Regional Head),  
Bank of Baroda, Regional Office,  
Jamnagar Region, 1<sup>st</sup> Floor, M.P. House, Saru Section Road,  
Jamnagar - 361008

....First Party / Employer

V

Shri Thakarshi Amrutlal Chauhan,  
Residence : At post-Bagadu,  
Tahsil and District Junagadh,  
Junagadh

.....Second Party / Workman

Advocate for the First Party / Employer : Shri K. V. Gadhia &  
: Shri M.K. Patel  
Advocate for the Second Party / Workman : None

#### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/4/2017-IR(B-II) dated 20.03.2017 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad in respect of the matter specified in the Schedule.

#### SCHEDULE

**“Whether the action of the management of Bank of Baroda, Regional Office, Jamnagar in dismissing the services of Shri Thakarshi Amrutlal Chauhan, Peon-cum-Sweeper without giving any notice or opportunity is legal and justified? What relief the concerned workman is entitled to?”**

1. The case was taken up today. None responded for second party / workman. The first party / employer is represented through advocates Shri K. V. Gadhia and Shri M. K. Patel. According to the records, it is traced that an affidavit (Ex. 10) was filed on behalf of second party / workman on 27.08.2018 as his examination-in-chief. Thereafter, more than 4 years have elapsed, but workman has not been turning up for enabling the first party / employer to cross-examine him. The workman was afforded last opportunity on 22.09.2022. Still neither the workman nor his Ld. Counsel has turned up. It appears that the workman is not interested to proceed further in the case. The affidavit dated 27.08.2018 (Ex. 10), submitted by the workman, cannot be read in evidence in favour of the workman, who has failed to present himself for his cross-examination. There is no other evidence on record to substantiate the claim of the workman.

2. Therefore, in absence of any evidence, the reference is answered accordingly against the workman's claim as stated in the above referred schedule.

Let two copies of the Award be sent to the appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 354.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चैन्सई के पंचाट संदर्भ सं. (01/2020) को प्रकाशित करती है ।**

[सं. एल -39025/01/2023-आई आर (बी-II) -13]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 354.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.01/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen

[No. L-39025/01/2023– IR(B-II) -13]

SALONI, Dy. Director

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM - LABOUR COURT CHENNAI

**Present:** DIPTI MOHAPATRA, LL.M., Presiding Officer

**I.D. No. 01/2020**

**30.01.2023**

Smt. N. Radha  
W/o M. Palanisamy  
Madhiyazhagan nagar  
Kozhipannaikadu  
Chengadhurai Road  
Sulur-641 402

: 1<sup>st</sup> Party/Petitioner

AND

1. The Deputy General Manager  
Regional Head  
Bank of Baroda  
Regional Office, Tamil Nadu Region  
No. 82, State Bank Road  
Coimbatore-641018

: 2<sup>nd</sup> Party/1<sup>st</sup> Respondent

2. The Branch Manager  
Bank of Baroda  
Sulur Branch  
No. 1A, Trichy Road  
Opposite to KMC Hospital  
Sulur  
Coimbatore-641 402

: 2<sup>nd</sup> Party/2<sup>nd</sup> Respondent

### Appearance:

For the 1<sup>st</sup> Party/Petitioner : Advocate, Sri V. Ajay Khose

For the 1<sup>st</sup> & 2<sup>nd</sup> Party/Respondent : Advocates, M/s T.S. Gopalan & Co.

### A WARD

This is an Application under 2(A) of the Industrial Dispute Act. The Applicant challenges the order of Respondent dismissing him from job. The applicant sought for his reinstatement with continuity of service, full back wage and all other attendant benefits.

2. On receipt of the Application, the dispute is registered as ID No. 01/2020 and due notices were issued to both the parties for their appearance on 02.03.2020. The applicant appear. The case was listed for Counter by the Respondent to 01.04.2020 and subsequent dates till 17.08.2021. The Respondent did not furnished the Counter Statement. The case is accordingly listed to 01.09.2021. However in between on dated 31.08.2021 the Respondent files this Counter Statement. Therefore both parties are directed to file documents and Petitioner was directed to affidavit evidence by Petitioner. The case was listed for the same purpose till 16.06.2022

intervening 6 adjournments. The Petitioner did not turn up to file the Affidavit-Evidence. However, for the interest of justice the case was again within positive direction to file affidavit evidence. The Petitioner did not turn up and the case is reposted to 12.07.2022 for the same purpose. The Petitioner chose not to cooperate the proceedings and fail to file affidavit evidence. However this Tribunal without taking any coercive step against the Petitioner afforded some more opportunities to the Petitioner to file the affidavit evidence. The case was listed to 25.07.2022 and subsequent dates 16.08.2022, 13.09.2022. The Petitioner did not turn up on repeated calls whereas the Counsel for the Respondent was present orally submitted to dispose of the case in accordance to law. Even then for the interest of justice, the case was once again listed to 20.10.2022. The Respondents Counsel highlighted the provision contemplated under the Scope of Rule 22 of the Industrial Dispute (Central Rule) and made a submission to pass an Award in turn of Rule 22 as the case in hand, in such peculiar circumstance squarely falls within the purview of the said Rule-22. On 20.10.2022, none on behalf of the Petitioner was present on repeated calls. No Petition for adjournment was either filed by the Authorized Representative / Counsel on behalf of the Petitioner.

On going through the Order Sheets as discussed above it is crystal clear that despite of sufficient opportunities though made in favour of the Petitioner, no progress in the proceeding was noticed for a substantial period almost approaching 3 years. Since the Petitioner chose not to file Affidavit-Evidence for her or any of the Witness and thereby withheld to come to Dock to prove her case. At the outset, the submission of the Learned Counsel for the Respondent has got sufficient force for consideration. Accordingly, the case was reserved for Final Order as liable for dismissal for default. This fact was very much reflected on the official website of this Tribunal. Even then till the date no petition is filed by the Applicant to re-open the case for onward proceeding. The very conduct of the Petitioner categorically reflects that she has no interest to proceed with the case.

In the fact and circumstance, it is held that there exists no dispute for adjudication in consonance to the reference.

In the result the case stands dismissed for default

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 355.**—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चैन्स के पंचाट संदर्भ सं. (75/2019) को प्रकाशित करती है ।

[सं. एल -39025/01/2023-आई आर (बी-II) -12]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 355.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 75/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen

[No. L-39025/01/2023- IR(B-II) -12]

SALONI, Dy. Director

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT**

**CHENNAI****Present : DIPTI MOHAPATRA, LL.M., Presiding Officer****I.D. No. 75/2019****31.01.2023**

Smt. A. Vasanthi

D/o Alagesan

W/o Marimuthu (Divorcee)

No. 151, KLKS Nagar

Pudukottai-622001

: 1<sup>st</sup> Party/Petitioner**AND**

1. The General Manager/Appellate Authority  
Industrial Relation Division  
Syndicate Bank, Head Office  
Manipal  
Karnataka-576104 : 2<sup>nd</sup> Party/1<sup>st</sup> Management
2. The Dy. General Manager/Appellate  
Authority  
Syndicate Bank, Regional Office  
Claret Plaza, Melakal Main Road  
Madurai : 2<sup>nd</sup> Party/2<sup>nd</sup> Management
3. The Enquiry Officer/Manager (HR)  
Syndicate Bank, Regional Office  
Chennai : 2<sup>nd</sup> Party/3<sup>rd</sup> Management

**Appearance:**For the 1<sup>st</sup> Party/Petitioner : Advocate, Sri R. MuruganFor the 2<sup>nd</sup> Party/Respondents : Advocates, M/s T.S. Gopalan & Co.**AWARD**

This is an Application under 2A(2) of the Industrial Dispute Act. The Applicant challenges the order of Respondent dismissing him from job. The applicant sought for his reinstatement with continuity of service, full back wage and all other attendant benefits.

2. On receipt of the Application, the dispute is registered as ID No. 75/2019 and due notices were issued to both the parties for their appearance on 25.06.2019. The Respondent was directed to file Counter Statement. The Respondent filed Counter Statement on 09.12.2019. Accordingly, the Petitioner was directed to file Affidavit-Evidence and Documents fixing the case to 17.02.2020 and to 18.03.2020. The Petitioner did not turn up to file the Affidavit-Evidence. However, due to the outbreak of Pandemic COVID-19, this Tribunal took lenient view and afforded almost 9 adjournments till 02.12.2021 for the same purpose. The Petitioner failed to file Affidavit-Evidence resulting further adjournments i.e. 07.01.2022 and 18.02.2022. The Petitioner did not turn up. Three more adjournments were made available to the Petitioner for the same purpose. It is pertinent to mention that on any of such date of postings, the Petitioner neither was present nor filed any Time Petition. The case was accordingly further listed to 11.07.2022 for the same purpose only when the Counsel for the Petitioner filed a Time Petition which was allowed and the Petitioner was afforded with further adjournments to 01.08.2022. On that day, no Affidavit-Evidence of the Witness is filed but the Counsel on the other hand filed a Time Petition which was again allowed adjourning the case to 15.09.2022 directing the Petitioner to file Affidavit-Evidence. On 15.09.2022, the Petitioner did not turn up on repeated calls whereas the Counsel for the Respondent was present and orally submitted to dispose of the case in accordance to law. Even then for the interest of justice, the case was again listed to 02.11.2022. The Respondent filed a Memo

highlighting the provision contemplated under the Scope of Rule 22 with a submission that the case in hand in such peculiar circumstance squarely falls within the purview of Rule-22 and further submitted to pass an award in terms of the Rule-22 of Industrial Dispute (Central Rules). On 02.11.2022, none on behalf of the Petitioner was present on repeated calls. No Petition for adjournment was either filed by the Authorized Representative / Counsel on behalf of the Petitioner. On going through the Order Sheets as discussed above it is crystal clear that despite of sufficient opportunities though made in favour of the Petitioner, no progress in the proceeding was noticed for a substantial period almost approaching 4 years. Since the Petitioner chose not to file Affidavit-Evidence for her or any of the Witness and thereby withheld to come to Dock to prove her case. This necessarily deems the Petitioner has got no interest to proceed with the case. At the outset, the Memo filed by the Learned Counsel for the Respondent has got sufficient force for consideration. Accordingly, the case was reserved for Final Order as liable for dismissal for default. This fact was very much reflected on the official website of this Tribunal. Even then till the date no petition is filed by the Petitioner to re-open the case for onward proceeding. The very conduct of the Petitioner categorically reflects that she has no interest to proceed with the case. In the fact and circumstance, it is held that there exists no dispute for adjudication in consonance to the reference.

In the result, the case stands dismissed for default.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 356.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चेन्नई पोर्ट ट्रस्ट प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चैन्नई के पंचाट संदर्भ संख्या (4/2019) को प्रकाशित करती है।

[सं. एल -33011/01/2018-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 356.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 4/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of Chennai Port Trust and their workmen

[No. L-33011/01/2018— IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT**

**CHENNAI**

**Present:** DIPTI MOHAPATRA, LL.M., Presiding Officer

**I.D. No. 4/2019**

**27.01.2023**

The General Secretary

Transport and Dock Workers Union  
193-B. Railway Colony  
Gandhi Irwin Road, Egmore  
Chennai-600008

: 1<sup>st</sup> Party/Petitioner Union

AND

The Chairman  
Chennai Port Trust  
Rajaji Salai  
Chennai-600001

: 2<sup>nd</sup> Party/Management

#### Appearance:

For the 1<sup>st</sup> Party/Petitioner Union : Advocates, M/s V. Vijay Shankar  
For the 2<sup>nd</sup> Party/Respondent : Advocate, Mr. MR Dharani Chander

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-33011/01/2018-IR (B.II) dtd. 27.11.2018 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

**“Whether the following demands of the Union is justified? If yes, to what relief are the workman entitled to? 1. To implement Modified Assured Career Progression for 42 Junior Engineers (Civil) (List enclosed) working in Civil Engineering Department from the date of their initial appointment; and 2. Recovery of Family Planning Increment amount paid to the employees should be stopped and amount recovered from the employees concerned should be refunded and to continue the payment of Family Planning Increment paid to those employees who had undergone Family Planning Operation, prior to joining the Trust’s service, including ex-servicemen / spouse”.**

2. On receipt of the dispute of reference from the appropriate Government, it is registered in ID No. 4/2019 and due notices were issued to both the parties for their appearance and to file Claim Statement and Documents fixing the date to 12.02.2019. On that day, the Petitioner Union entered appearance through its Counsel and the case was listed 19.03.2019 for Claim Statement and Documents. The Petitioner complied the direction by filing its Claim Statement. Thus, the case was listed to several dates intervening almost 8 adjournments till 05.03.2020. The Respondent did not turn up. Due to outbreak of Pandemic COVID-19, there was no substantial progress in the proceeding. The case was again re-listed to several dates intervening 5-6 adjournments. However, the case was listed to 17.05.2021, the Respondent in between on 17.03.2021 filed the Counter Statement. Accordingly, the case was listed to 28.07.2021 directing the Petitioner Union to file Affidavit-Evidence of the Witness. The case was further listed to several dates for the same purpose till 17.01.2022 intervening 4 adjournments. The Petitioner did not turn up. However, this Tribunal suo-moto afforded some more opportunities for the same purpose intervening 7 adjournments till 31.10.2022. It is pertinent to mention that the Petitioner was even directed to file Affidavit-Evidence positively and as last chance. On 31.10.2022, neither the General Secretary of the First Part Union nor the Authorized Representative / Counsel were present nor the Affidavit-Evidence of the Witness was filed. No time petition was filed. However, for the interest of justice, this Tribunal afforded another opportunity to the Petitioner to file the Affidavit-Evidence, if any fixing the case to 28.11.2022 as last chance. On the date of posting, on repeated calls none appeared on behalf of the Petitioner nor the Affidavit-Evidence of any Witness intended to be examined on behalf of the Petitioner was received by this Tribunal in any manner, either Postal or Courier service. No time petition was filed on behalf of the Petitioner. On going through the Order Sheets as discussed above it is crystal clear that despite of sufficient opportunities though made in favour of the Petitioner Union, no progress in the proceeding was noticed for a substantial period almost approaching 4 years from the date of registration of the case. Since the Petitioner Union itself withheld to bring the Witness to Dock to prove its case which deems the Petitioner Union has got no interest to proceed with the case and therefore failed to file the Proof-Affidavit even though sufficient opportunities were made available to it. At the outset, the Learned Counsel for the Respondent humbly submitted to dispose of the case for utter default on the part of the Petitioner. Taking into account of the fact of negligence attributed by the Petitioner Union in dragging the case for such a long

time, it is felt the submission of the Learned Counsel for the Respondent has got sufficient force for consideration. Accordingly, the case was reserved for Final Order as liable for dismissal for default. This fact was very much reflected on the official website of this Tribunal. Even then till the date no petition is filed by the Petitioner Union to re-open the case for onward proceeding. The very conduct of the Petitioner Union categorically gives an impression that it has no interest to proceed with the case. It is held that there exists no dispute for adjudication in consonance to the reference.

In the result, the case stands dismissed for default.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 357.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चेन्नई पोर्ट ट्रस्ट प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चैन्स के पंचाट संदर्भ सं. (2/2019) को प्रकाशित करती है ।

[सं. एल -33011/05/2018-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 357.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.2/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of Chennai Port Trust and their workmen.

[No. L-33011/05/2018—IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM - LABOUR COURT

#### CHENNAI

**Present:** DIPTI MOHAPATRA, LL.M., Presiding Officer

**I.D. No. 2/2019**

**27.01.2023**

The General Secretary  
Port & Dock Labour Union  
No. 1, 675, 1<sup>st</sup> Street  
Muthamizh Nagar  
Chennai-600118

: 1<sup>st</sup> Party/Petitioner Union

AND

The Chairman  
Chennai Port Trust  
Rajaji Salai  
Chennai-600001

: 2<sup>nd</sup> Party/Management

#### Appearance:

For the 1<sup>st</sup> Party/Petitioner Union : Advocates, M/s Samantha & Ston



For the 2<sup>nd</sup> Party/Respondent : Advocate, Mr. MR Dharani Chander

### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-33011/05/2018-IR (B.II) dtd. 26.11.2018 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

**“Whether denial of regularization to 03 Dialysis Technicians viz. (i) M/s S. Helen Vilsy (ii) Smt. A. Chitra and (iii) Sri T. Senthilvel in the Medical Department by the management of Chennai Port Trust amounts to Unfair Labour Practices under ID Act. If so, whether the demand of Union for regularization of their services is legal, fair and justified? If yes, what relief they are entitled to?”**

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered in ID No. 2/2019 and notices were issued to both the parties for their appearance on 12.02.2019.

3. On that day, both parties entered appearance. The Petitioner files Claim Statement and documents. The case is accordingly listed to 16.04.2019 for filing of Counter Statement by the Respondent. The Respondent did not file the Counter Statement resulting adjournment to 20.05.2019. The Respondent did not turn up and the case was further adjourned to several dates till 18.04.2020 intervening almost 7 adjournments. Due to outbreak of Pandemic COVID-19 the case was again re-listed to several dates till 17.03.2021 when Counter Statement was filed by the Respondent. The Petitioner was directed to file Affidavit-Evidence, if any. Since then the case is listed for the same purpose on several dates intervening 5 adjournments till 17.12.2021. The Petitioner did not turn up. However, for the interest of justice the case was listed to some more dates i.e. 21.01.2022, 15.03.2022, 05.05.2022 and 27.07.2022 as last chance to file the Affidavit-Evidence. On that day, the Counsel for the Petitioner Union filed a time petition and the case was relisted to 17.08.2022 for the same purpose. On 17.08.2022, the Proof Affidavit of Sri R. Santhanam, the General Secretary of the Union was filed. Since the case got dragged for a long time only for the negligence attributed by the Petitioner, a positive direction was imparted on the Petitioner to get ready for his Examination-in-Chief and Cross-Examination. The case was accordingly listed to 02.11.2022. The Witness, the General Secretary did not turn up resulting further adjournment to 15.12.2022 with a direction to the Petitioner-Witness to appear before the Tribunal for his Chief and Cross Examination positively. On that day, none on behalf of the Petitioner Union was present on repeated calls. No Petition for adjournment was either filed by the Authorized Representative / Counsel on behalf of the Petitioner Union. On going through the Order Sheets as discussed above it is crystal clear that despite of sufficient opportunities though made in favour of the Petitioner Union, no progress in the proceeding was notice for a substantial period of 4 years. Since the Petitioner Union itself withheld to bring the Witness to Dock for his Chief and Cross Examination, it deems the Petitioner Union has got no interest to proceed with the case. At the outset, the Learned Counsel for the Respondent humbly submitted to dispose of the case for utter default on the part of the Petitioner. Taking into account of the fact of negligence attributed by the Petitioner Union in dragging the case for such a long time, it is felt the submission of the Learned Counsel for the Respondent has got sufficient force for consideration. Accordingly, the case was reserved for Final Order as liable for dismissal for default. This fact was very much reflected on the official website of this Tribunal even then till the date no petition is filed by the Petitioner Union to re-open the case for onward proceeding. The very conduct of the Petitioner Union categorically reflects that it has no interest to proceed with the case. It is held that there exists no dispute for adjudication in consonance to the reference.

In the result, the case stands dismissed for default.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 358.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी-डॉट-दिल्ली कैंपस, छतरपुर, मंडी रोड टाटा स्काई बिल्डिंग के पास महरौली, नई दिल्ली; ग्रीन सॉल्यूशंस, एफ-61/34, लेन नंबर 02, समाज कल्याण केंद्र के सामने, कटवारिया सराय, नई दिल्ली, के प्रबंधन के संबंध में नियोजकों और श्री जाकिर हुसैन, कामगार, द्वारा - ऑल इंडिया जनरल मजदूर ट्रेड यूनियन, कालकाजी,

नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 137/2021) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.03.2023 को प्राप्त हुआ था।

[सं. एल -40012/7/2021-आई आर (डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 5th April, 2023

**S.O. 358.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 137/2021) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to C-DOT-Delhi Campus, Chhattarpur, Mandi Road Near Tata Sky Building Mehrauli, New Delhi ;Green Solutions,F-61/34,Lane No. 02, Opposite Social Welfare Center, Katwaria Sarai, New Delhi, and Shri Zakir Hussain, Kaamgar, Through- All India General Mazdoor Trade Union, Kalkaji, New Delhi, which was received along with soft copy of the award by the Central Government on 10.03.2023.

[No. L-40012/7/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

**Present:** Smt. PRANITA MOHANTY, Presiding Officer,  
C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

#### INDUSTRIAL DISPUTE CASE NO. 137/2021

**Date of Passing Award- 28<sup>th</sup> February, 2023.**

#### Between:

Sh. Zakir Hussain, S/o Sh. Chabdar,  
Through- All India General Mazdoor Trade Union  
170, Bal Mukund Khand, Giri Nagar, Kalkaji,  
New Delhi-110019

....Claimant

Versus

1. C-DOT-Delhi Campus, Chhattarpur,  
Mandi Road Near Tata Sky Building Mehrauli,  
New Delhi-110030.
2. Green Solutions,  
F-61/34,Lane No. 02, Opposite Social Welfare Center,  
Katwaria Sarai, New Delhi-110016.

....Managements

#### Appearances:-

Claimant in person  
None for mgt. no. 1 i.e. C-DOT  
Md. Nadeem, Ld. A/R for the mgt. no.2 i.e. Green Solution

#### AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of(i) C-DOT-Delhi Campus,(ii) Green Solutions and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the

Industrial Dispute Act 1947 vide letter No. L-40012/7/2021(IR(DU) dated 04/08/2021 to this tribunal for adjudication to the following effect’;

**“Whether the action of management of M/s. Green Solutions (Contractor) under C-DOT (Principal Employer) in terminating the services of the workman Sh. Zakir Hussain, S/o Sh. Chabdar, Mali (Contractual) w.e.f. 02.04.2019 as raised by All India General Mazdoor Trade Union (Regd) vide letter dated 09.08.2019 is proper, legal and justified? If not, then to what relief Sh. Kurmaan Malik is entitled to and from which date? What other directions, if any, are necessary in the matter?”**

As per the claim statement the claimant was working as a Gardner with m2 since 21.10.2017 and the last day drawn by him by 11975 per month. During his employment he had labored given any scope of complaint to the employer he was deputed to work in the premises of m1. The employer was not extending the minimum basic privileges to the claimant which he was often raising demand. Being aggrieved, the M2 illegally terminated his service without following the provisions of ID Act. The representation made by the claimant for reinstatement into service was not considered. Finding no other way the claimant raised a dispute before the Labour Commissioner and a conciliation was held. The management no. 2 though appeared did not agree to the demand made by the claimant. Hence, the appropriate Government referred to this Tribunal for adjudication.

Notices were issues to all the parties. The claimant appeared and filed the claim statement but the M1 did not appear. M2 filed written statement denying the claim advanced. In the w/s M2 stated that a compromise has been effected between the parties and no dispute exists for adjudication.

The statement of the claimant was recorded separately and he stated to have received Rs. 15,000 as compensation from M2 towards full and final settlement of the dispute. A copy of the cheque showing payment by M2 to the claimant was placed on record. Hence this no dispute award is passed. Hence Ordered.

#### ORDER

The reference be and the same is answered against the claimant and it is held that no dispute between the parties exists for adjudication.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHNATY, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2023

**का.आ. 359.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट संदर्भ संख्या (67/2020) को प्रकाशित करती है ।

[सं. एल -12011/08/2020-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2023

**S.O. 359.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 67/2020) of the Cent.Govt. Indus. Tribunal-cum-Labour Court No. 1 Delhi as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12011/08/2020– IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT DELHI – 1  
ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.**

**Present :** JUSTICE VIKAS KUNVAR SRIVASTAVA (RETD.) Presiding officer

CGIT, Delhi-1

**ID No. 67/2020**

The President,  
CITU Dehradun Chapter,  
Office at Local Bus Stand,  
Dehradun

...Claimant

Versus

1. The Chairman,  
Punjab National Bank,  
Principal Office,  
5 Parliament street,  
New Delhi-110001.
2. The Zonal Manager,  
Punjab National Bank,  
Principle Branch, Ghantaghar,  
Dehradun.
3. The Manager,  
Punjab National Bank,  
Naariship Branch, Dehradun.

...Management

None for the claimant  
Shri Rajat Arora, AR for the management

**AWARD**

In the present case, a reference was received from the appropriate Government vide letter No.12011/08/2020-IR(B-II) dated 11.03.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

**SCHEDULE**

**“Whether Smt. Sumanlata Chaudhary wife of late Shri Raju who worked as Clerk/Cashier at Quansi Branch is entitled for the benefits under the Pension Scheme launched in 2010 by the management of Punjab National Bank ? If not, is she entitled to any other benefits which may be provided to her by the management & on what terms ?”**

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 20. 01. 2023

Justice VIKAS KUNVAR SRIVASTAVA (RETD.), Presiding Officer